JOURNALS

of the

SENATE

and the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

Extraordinary Session of 1987

Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1987, and
in the One Hundred and Ninety-Sixth
Year of the Commonwealth

Begun on the Fourteenth Day of October, 1987, and Adjourned
on the Twenty-Second Day of October, 1987

FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Sections 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes,* the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This volume represents the fulfillment of this obligation for the Senate of the Extraordinary Session of 1987.

The text of a bill is spread in full when it receives a first reading. The roll call on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended.

Mrs. Iris Barrett prepared the Senate Journal for the 1987 Extraordinary Session. The edited copy and index found in this volume reflect the cooperative efforts of the Commission's staff.

VIC HELLARD, JR.
Director

The Capitol
Frankfort, Kentucky

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JOURNAL

OF THE

SENATE

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF KENTUCKY

EXTRAORDINARY SESSION OF 1987

WEDNESDAY, OCTOBER 14, 1987

FIRST LEGISLATIVE DAY

At an Extraordinary Session of the General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on October 14, 1987, the one hundred and ninety-sixth year of the Commonwealth, in compliance with a proclamation issued by the Governor of the Commonwealth of Kentucky, the Honorable Martha Layne Collins, the Honorable Steven L. Beshear, Lieutenant Governor of the Commonwealth and President of the Senate, assumed the Chair and called the Senate to order.

Prayer by Dr. Donald Nunnelly, Pastor of the First Christian Church, Frankfort, Kentucky.

The Clerk read the following Proclamation from the Secretary of State:

PROCLAMATION

by

MARTHA LAYNE COLLINS

GOVERNOR

of the

COMMONWEALTH OF KENTUCKY

To All To Whom These Presents Shall Come:

Pursuant to the power vested in me by Section 80 of the Constitution of Kentucky, I, Martha Layne Collins, Governor of the Commonwealth of Kentucky, finding that an emergency does exist, do issue this, my proclamation, convening the General Assembly of Kentucky in Extraordinary Session at the Seat of Government, Frankfort, Kentucky, at 4:00 p.m. (EDT), Wednesday, October 14, 1987, for the sole purpose of considering the following subjects relating to Workers' Compensation:

(1) Amending KRS Chapters 336, 342, and 351 as follows:

(a) Establishing a three-member full-time independent Workers' Compensation Board possessing the qualifications of appellate judges and appointed by the Governor; establishing terms of office and duties of Board; and providing for a transition period;

(b) Providing for the administration of the Department of Workers' Claims by the Workers' Compensation Board through a Commissioner employed by the Board;

(c) Permitting the Workers' Compensation Board to employ administrative law judges having the qualifications of circuit judges;

(d) Specifying administrative law judges' powers and duties, including pre-hearing conferences; rendering final decisions, orders, and awards; ordering rehabilitation prior to an award; and approving fees for attorneys, physicians, and hospitals;

(e) Providing for the appeal of the administrative law judges' decisions to the Workers' Compensation Board;

(f) Providing for the appeal of the Workers' Compensation Board's decisions to the Court of Appeals subject to Supreme Court rules;

(g) Requiring the Workers' Compensation Board to adopt a medical fee schedule on or before July 1, 1988;

(h) Requiring the adoption and use of the Kentucky tables (if available) in the most recent edition of the U.S. decennial life tables in the calculation and apportionment of benefits;

(i) Permitting reopening of coal-related occupational pneumoconiosis awards while requiring credit for benefits previously awarded;

(j) Prohibiting discrimination based upon a diagnosis of coal-related occupational pneumoconiosis and providing civil remedies;

(k) Waiving physician-patient or chiropractor-patient privilege in Workers' Compensation cases;

(l) Limiting medical testimony and allowing direct medical testimony through written medical reports;

(m) Permitting reopening and review of cases based on a change in occupational disability;

(n) Requiring Workers' Compensation coverage for all working partners of partnerships and all partners in the coal mining and construction industries;

(o) Establishing payment methods and procedures for attorneys' fees and providing for attorneys' fees in reopenings;

(p) Equalizing survivor benefits in unrelated death cases to those paid in related death cases;

(q) Establishing penalties for violations of KRS Chapter 342;

(r) Transferring Division of Special Fund from Department of Workers' Claims to Department of Workplace Standards in the Labor Cabinet.

(2) Enacting legislation requiring an apportionment of 50% to the employer and 50% to the Special Fund in Workers' Compensation back and heart cases.

(3) Enacting legislation transferring the Uninsured Employers Fund Division, its assets and liabilities to the Office of General Counsel within the Office of the Secretary, Labor Cabinet.

(4) Enacting legislation establishing eligibility standards, apportionment, and a new benefit structure for coal-related occupational pneumoconiosis.

(5) Enacting legislation creating a Workers' Compensation Advisory Council.

(6) Enacting legislation to implement a plan to fund and pre-fund the liabilities of the Special Fund, the operation and administration of the Special Fund, and certain other programs in the Labor Cabinet, without

the use of General Fund monies; creating the Workers' Compensation funding commission to replace the Kentucky Reinsurance Association to perform functions relating to the funding plan and transferring the assets and liabilities of the Association to the Commission.

(7) Providing for the enactment of conforming amendments and allowing for reorganization as necessary.

(8) Repealing various provisions of the Kentucky Revised Statutes as necessary to implement the provisions of this proclamation.

DONE AT THE CAPITOL, in the City of Frankfort, this the 7th day of October in the year of our Lord One Thousand Nine Hundred and Eighty-seven and in the year of the Commonwealth the One Hundred Ninety-sixth.

s/MARTHA LAYNE COLLINS, GOVERNOR

Commonwealth of Kentucky

s/DREXELL R. DAVIS

Secretary of State

The President requested that the Journal show that the membership of the Senate is the same as the 1987 Organizational Session.

The roll was called. All Senators present except Senators Friend and Sheehan.

Senator Wright moved that the absent Senators be granted leave of absence. Agreed.

Senator Wright moved that Floyd Anderson be elected Chief Cloakroom Keeper. Agreed.

Floyd Anderson proceeded to the President's desk and was administered the oath of office by Judge Robert Stephens of the Supreme Court of Kentucky

Introduction of Bills and Resolutions

SR 1, by Senator Wright: A RESOLUTION extending an invitation to the pastors of the Frankfort churches to open sessions of the Senate with prayer.

SR 2, by Senator Wright: A RESOLUTION adopting rules to govern the 1987 extraordinary session of the Senate.

SR 3, by Senator Wright: A RESOLUTION directing appointment of a committee to wait upon the Governor.

Senator Wright moved the adoption of **SR 1**. Agreed.

SR 1 is as follows:

SR 1, A RESOLUTION extending an invitation to the pastors of the Frankfort churches to open sessions of the Senate with prayer.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

That the Sergeant at Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the Senate and open the sessions thereof with prayer.

Senator Wright moved the adoption of **SR 2**. Agreed.

SR 2 is as follows:

SR 2, A RESOLUTION adopting rules to govern the 1987 extraordinary session of the Senate.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

That the rules adopted by the Senate to govern the 1986 regular session of the Senate be adopted as the rules governing the 1987 extraordinary session of the Senate.

Senator Wright moved the adoption of SR 3. Agreed.

SR 3 is as follows:

SR 3, A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the President appoint a committee of this Senate to join a like committee from the House of Representatives to wait upon the Governor and inform her that the General Assembly is prepared to receive any message she may care to deliver.

The Chair appointed the following committee of the Senate to wait upon the House of Representatives and the Governor, pursuant to the provisions of SR 3: Senators Kafoglis, Williams and Clouse.

Recess

Senator Wright moved that the Senate be in recess until 4:55 p.m., at that time to reconvene to proceed to the House of Representatives for a Joint Session of the General Assembly to hear an address by the Governor of the Commonwealth, and at the close of the Joint Session, to be in adjournment until 2:00 p.m., Thursday, October 15, 1987. Agreed.

At the appropriate time the President resumed the Chair and called the Senate to order.

Joint Session

The Senate proceeded to the House of Representatives, where they entered upon the floor.

Representative Stumbo moved that the House and Senate resolve into joint session. Agreed.

The Honorable Steven L. Beshear, Lieutenant Governor and President of the Senate, assumed the Chair and called the Joint Session to order.

Representative Stumbo moved that the roll call be dispensed with. Agreed.

Prayer by Dr. Donald Nunnelly, Pastor of the First Christian Church, Frankfort, Kentucky.

The committees from the House and Senate appointed to wait upon the Governor appeared with Her Excellency, the Honorable Martha Layne Collins, Governor of the Commonwealth of Kentucky, and escorted her to the podium, where she addressed the Joint Session of the General Assembly as follows:

"I have called this Extraordinary Session to ensure Kentucky's continued progress. Our aim is more jobs. Our means is the reform of workers' compensation. Our standard is fairness. Fairness to the working men and women of Kentucky. Fairness to our employers. Fairness to all our taxpayers. And the plans now before us offer the possibility of achieving a fair balance among the legitimate concerns and interests of labor, the coal industry, other business and the people of Kentucky.

To underscore the importance of a sound workers' compensation system for preserving and creating jobs let me offer these examples from my own recent experience.

Last summer, Kentucky was on the verge of losing a major employer because of our system. In fact, had my administration not blocked the proposed assessments by the Kentucky Reinsurance Association I am confident

that employer would have left the state. But we were able to preserve those jobs by signalling our concern about the system and our intention to correct its deficiencies.

As to the importance of the system for creating new jobs, we have currently reached the stage in negotiations with two industries where workers' compensation is a key consideration in whether they will locate in Kentucky. What we do in this Session will weigh heavily in their decision.

These are not isolated examples. The system has been of growing concern to our existing industries and to those considering locating here.

Our journey to this Session began almost two years ago when the General Assembly—recognizing the threat posed by the system—asked that I establish the Governor's Task Force on Workers' Compensation. The Task Force worked for more than a year gathering information and analyzing specific aspects of the problem.

I drew heavily on its recommendations in devising my own plan. Other plans emerged. The coal industry offered a proposal. So did the House and Senate.

A tremendous amount of work and thought has gone into trying to resolve a problem that has been building for forty years through administration after administration. We're still working. The problem is as complex as any that has ever faced this state's leadership.

It goes to heart of how prosperous we might become. But our challenge goes beyond improving Kentucky's business climate. A better environment for business cannot be the sole measure of what we do here. For the problem also goes to the heart of justice for men and women injured or disabled on the job. So we are working to forge a solution that will create a better business climate without sacrificing justice.

From the several proposals offered and from the ensuing public debate has emerged a consensus that has brought us together for this Special Session. I heartily commend your cooperation and your participation in the process.

And since today marks the last time I will address a session such as this I want to commend the General Assembly for your cooperation throughout the past four years and for your contribution to Kentucky's progress. Your role in this regard has been of such magnitude and of such historical consequence that I must offer more than a passing comment.

Four years ago when I first addressed a joint session of the House and Senate it was becoming widely recognized that the Legislature had evolved into a partner in governing the Commonwealth. And during my term what we have accomplished together has demonstrated that point conclusively. More important for the future of this Commonwealth our accomplishments have demonstrated this partnership in a manner that skeptics thought unlikely, if not impossible.

In fact, you and I could write a manual on executive-legislative relationships. We've struck a balance. We've avoided the excesses of executive dominance or executive inattention.

The budget process—the very heart of policymaking—is today a joint effort. The Legislature and Executive respect each others constitutional role.

We have worked together as well as any others before us. Certainly, the General Assembly has played an active role in crafting legislation to chart a new course for Kentucky.

Our historic Education Improvement Package was a landmark in the history of Kentucky's growth. Through that package you and I launched a new tradition of excellence in education, a tradition that will serve well our children and grandchildren.

That was more than two years ago. Today, your unflagging commitment to those reforms is an asset to the people of Kentucky. Our reforms are a tool for progress. They have already spurred economic growth. They will continue to assist in the creation of still more jobs and other opportunities. Moreover, these reforms are a measure of the roll this Legislature has to play in shaping Kentucky's future.

Those who benefit most from this working partnership between the Legislature and the Chief Executive are the people of Kentucky. And for that reason I am confident the partnership will continue to grow.

Just as you were a full partner in formulating an education package you have been a full partner in bringing us toward the reform of workers' compensation.

The two issues are related. For just as better education is a key to greater prosperity so is the reform of workers' compensation. We improve our schools so we can prosper more fully in a Global Economy. We reform workers' compensation to preserve existing jobs and to remove any liability that would make it more difficult to create new jobs.

My Task Force recommendations provide the basis for major and effective reform. The recommendations affecting the benefit structure and administration of the program remain the core of a sound solution. Other measures will address the long-term problem of the unfunded liability.

To improve the business climate we want to provide predictable and affordable assessments. As we do so, we also want to meet our responsibility to those injured or disabled in the workplace.

My Task Force's recommendations leave unchanged the benefits to the men and women already drawing them. Future benefits will remain the most generous in America.

The Governor's Task Force recommendations provide safeguards against a recurrence of the problems troubling workers' compensation today. In particular I want to point out the transformation in how the program will be administered.

My Task Force recommendations bring order to what is now a fragmented, inefficient and costly system of administration. Today, administration is spread among private insurance companies, self-insured groups, state cabinets and non-budget entities. No one adequately monitors the program to make sure funding and awards are in line with one another. In fact, it cannot be monitored in its current state because the program cannot be properly audited. In this Session, we will set out workers' compensation program on the right course.

Four years ago we found ourselves confronted by the problems caused by a recession that had pushed tens of thousands of Kentuckians out of work and stretched the state budget to the limit. We found ourselves with an educational system inadequate to the demands of a new technological age of information and communications.

This General Assembly was equal to those challenges.

And together, you and I and the people of Kentucky have created a powerful momentum for more progress in the years ahead. It is momentum that has Kentucky on the move in education and in providing new jobs and opportunities.

Because of our education package, we have a record amount of school construction underway or planned and many of you have seen that progress firsthand. The Representative from the 59th District joined me in breaking ground this past summer for a new high school in Oldham County. The Representatives from the 73rd and 84th Districts and the Senator from Clark County and I broke ground for a new middle school in Powell County just a few months ago. And some $200 million more in construction will give young people throughout Kentucky a better environment in which to learn.

We'll be beginning construction in coming months for a new junior high in Laurel County and an elementary school in Knox County. An elementary school addition in Fulton County and a new elementary school in Gallatin County will soon be finished.

In all . . . our bonds have helped fund new schools . . . additions . . . or renovations in 70 counties.

And construction is going on in higher education as well. Only a few hours ago we broke ground in Madisonville for a new auditorium that will be used not only by the college but by the community as well. Mr. Speaker, together this summer, we broke ground for a community college in Owensboro. The Representative from the 95th District was there last month when we broke ground for a new building at Prestonsburg Community College. And so were the Senators from Knott and Johnson. We recently broke ground for a new learning resource center at Hazard Community College.

We've seen a record number of new jobs created this past four years. And we're breaking ground, dedicating new plants or announcing expansions almost daily now around the state. The Representative from the 21st District was with me in Bowling Green in September when we announced 100 new jobs at Bando Chemical. Others of you joined me at Allison Abrasives in Lancaster, H. B. Fuller in Paducah, Columbus Showcase in Jackson, Foster Grant in Somerset, Excel in Fulton, Shelburne Garment in Springfield, Technotrim in Maysville, Worldmark in Hawesville, Sealmaster in Morehead. These and other projects throughout Kentucky manifest our new spirit of progress.

People are noticing Kentucky as never before, not just nationally, but internationally, and we're prepared to make the most of it.

Four years ago not many of our towns, communities or counties had anyone devoting most of their time to recruiting industry. Today, to name a few, Winchester, Todd County, Ohio County, Hopkinsville, Lebanon, Richmond, London, Pikeville, Carrollton and Mt. Sterling—all of these communities now have a professional whose time is dedicated to economic development.

That's what I mean when I say Kentucky's on the move.

Last week in Louisville at the invitation of my administration 106 communities gathered to tell corporate executives from around America and around the world what they have to offer.

All this is evidence that jobs are getting more attention than they've ever gotten before. We're in the thick of the competition. And we've proven we can compete not only with other states but with other nations.

All this is genuine progress. We've made a difference for Kentucky. And we've paved the way for still further progress.

More than bricks and mortar, however, more than this physical evidence of our progress, it is the spirit of our people that gives me the greatest hope for a better future.

There's a new attitude in Kentucky. It's a new optimism about what individuals can accomplish, about what Kentucky can become and about what it takes to get there.

People everywhere around Kentucky recognize more fully than ever the importance of education. We've stressed literacy programs as never before. And they are enabling thousands of men and women to lead fuller lives. It is a pool of potential and talent that has been lost to us in the past. Today, it is contributing to a better Kentucky.

And consider what's happening in higher education. In the face of expected decreases, enrollment is actually up at most of our community colleges and universities: 4.5 percent at Eastern, 4 percent at Northern Kentucky, 5 percent at Murray, 8 percent at Morehead, 9 percent at Western and 10 percent at the University of Kentucky, including 15 percent at the community colleges.

In these increases and in our literacy programs, it's clear that more people are doing what it takes to build for the future and to make better lives for themselves and their families. In the process, they're building a better Kentucky.

Nowhere is this new spirit more pronounced than in our GED programs. And no story better captures this new spirit than that of Denver and Arna Barrett of Clay County. Denver and Arna were working for Mid South Electric Company when the plant burned. When the decision was made to rebuild the plant as a high-tech facility the Barretts enrolled in the company's training program and began working on their GEDs.

They studied together and looked forward to receiving their diplomas together. But when graduation day came Arna was in the hospital recovering from the premature birth of their first child, a little boy. Nevertheless, they were determined to graduate together.

And that afternoon Denver checked Arna and the baby, Denver Dwayne, out of the hospital so they could go to the ceremony. They arrived about halfway through the graduation. Their fellow graduates were concerned about Arna and the baby but they understood—perhaps more than most of us could—why the Barretts were there that day. These people and their spirit, that's why I'm optimistic.

If Denver and Arna and their classmates were one isolated success story I would not be so optimistic. But they're not. Today, Kentucky leads America in new GED graduates. We're number one in the percentage increase in adults earning their GED. For a state where the drop-out rate has long burdened us this is a tremendous tournaround. And if we maintain this trend it will be one of the most profound improvements in our workforce this state has ever experienced.

It speaks volumes about the spirit of our people, about their determination and about their belief in a better future. And it is another reason why building on our momentum is so vital.

We have this state moving. We must keep it moving. We owe it to every GED graduate, to every young person enrolled in college, to every boy and girl in school, to every man or woman looking for a job, to every citizen of this Commonwealth.

If Kentucky is to conquer the economic problems that have characterized the state's history, its leaders must look beyond expedient solutions that address only the needs of the moment to the enduring gains that ensure a better future. Governors, every elected official, must have the vision and the courage to look beyond their own term. From the first day I took office I committed myself to that approach. And during this administration, we've made some difficult decisions that were necessary to turn around an economy whose traditional strengths could not sustain us as they have in the past.

I've wanted to build a solid foundation on which you and other leaders can build still further. Our Education Improvement Package is part of that stronger foundation. So are our gains in providing jobs. A lasting solution for workers' compensation is another.

Left unchanged or dealt with only in patchwork fashion our current system threatens our many advances.

Yes, we've launched a new tradition of excellence in education. But that tradition should not have to overcome the burden of a system that could drive out jobs and opportunities.

Yes, a record number of jobs has been created in Kentucky in the past four years. But we will not have created enough jobs until every Kentuckian who wants one has one.

Here in this session we intend to position Kentucky more favorably for creating these jobs.

We will reform workers' compensation. We will reform it fairly. We will fuel Kentucky's drive toward a more prosperous future."

Representative Stumbo moved that the Joint Session be now dissolved. Agreed.

Adjournment

As previously agreed, the Senate then adjourned until 2:00 p.m., Thursday, October 15, 1987.

THURSDAY, OCTOBER 15, 1987

SECOND LEGISLATIVE DAY

The Senate was called to order by Lieutenant Governor Beshear.

Prayer by Father J. Williamson Brown, First Church of the Ascension, Frankfort, Kentucky.

The roll was called. All Senators present except Senators Berger, Friend, Haering, O'Daniel, Rogers, Sheehan and Williams.

Senator Wright moved that the absent Senators be granted leave of absence. Agreed.

Senator Wright moved that the reading of the Journal of October 14, 1987, be dispensed with and the same approved. Agreed.

Adjournment

Senator Wright moved that the Senate adjourn until 9:00 a.m., Friday, October 16, 1987. Agreed.

FRIDAY, OCTOBER 16, 1987

THIRD LEGISLATIVE DAY

The Senate was called to order by Lieutenant Governor Beshear.

Prayer by Dr. James Wagner, South Frankfort, Presbyterian Church, Frankfort, Kentucky.

The roll was called. All Senators present except Senators Berger, Ford, Friend, Garrett, Haering, Huff, O'Daniel, Schmidt, Sheehan and Travis.

Senator Wright moved that the absent Senators be granted leave of absence. Agreed.

Senator Wright moved that the reading of the Journal of October 15, 1987, be dispensed with and the same approved. Agreed.

Adjournment

Senator Wright moved that the Senate adjourn until 4:00 p.m., Monday, October 19, 1987. Agreed.

MONDAY, OCTOBER 19, 1987

FOURTH LEGISLATIVE DAY

The Senate was called to order by Lieutenant Governor Beshear.

Prayer by Father Theodore Keller, Good Shepherd Church, Frankfort, Kentucky.

The roll was called. All Senators present except Senators LeMaster and Pearman.

Senator Wright moved that the absent Senators be granted leave of absence. Agreed.

Senator Wright moved that the reading of the Journal of October 16, 1987, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

SR 4, by Senators Karem and Moloney: A RESOLUTION honoring Marie Abrams.

Senator Karem moved the adoption of **SR 4**. Agreed.

SR 4 is as follows:

SR 4, A RESOLUTION honoring Marie Abrams.

WHEREAS, October 19, 1987, is the fiftieth birthday of distinguished Kentuckian Marie Abrams; and

WHEREAS, local historians note only two major events for 1937, a devasting flood in Louisville and the birth of Marie Abrams; and

WHEREAS, this historic birth occurred just ten years after Charles Lindbergh flew into Louisville in the Spirit of St. Louis, and followed hot on the heels of the end of the depression and prohibition; and

WHEREAS, today is also being celebrated as the birthday of Confucius (the 27th day of the eighth lunar month); and

WHEREAS, Marie Abrams, despite the ravages of the advancing years, has served this honorable assembly well;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body wishes Marie Abrams a very happy birthday.

Section 2. That when the Senate adjourns this day, October 19, 1987, it does so in tribute to Marie Abrams.

Section 3. That a copy of this resolution be sent to Marie Abrams.

Recess

Senator Wright moved that the Senate be in recess for fifteen minutes for the purpose of party caucuses. Agreed.

At the appropriate time the President resumed the Chair and called the Senate to order.

The Chair stated that without objection the rules are suspended for the purpose of introduction of a resolution.

Introduction of Bills and Resolutions (Cont.)

SR 5, by Senators Sheehan, Schmidt and Weaver: A RESOLUTION adjourning the Senate in honor of Clyde Bishop, of Newport, Kentucky.

The Chair stated that without objection the rules are suspended for the purpose of considering a resolution.

Senator Sheehan moved the adoption of SR 5. Agreed.

SR 5 is as follows:

SR 5, A RESOLUTION adjourning the Senate in honor of Clyde Bishop of Newport, Kentucky.

WHEREAS, Clyde Bishop of Newport, Kentucky has been a dedicated public servant for 34 years, diligently working for the Newport Police Department, retiring at the rank of Lt. Colonel and Chief of the Detective Division; and

WHEREAS, Clyde Bishop has been an active member of the Fraternal Order of Police, an organization committed to improving working conditions and benefits for policemen; and

WHEREAS, 1987 was the first year the National Fraternal Order of Police held a competition to determine a recipient for "National F.O.P. Man of the Year" award; and

WHEREAS, Clyde Bishop was bestowed the prestigious Jack Duddek F.O.P. Man of the Year award on August 5th in Mobile, Alabama at the national convention of the Fraternal Order of Police; and

WHEREAS, Clyde Bishop was selected from the 189,000 F.O.P. membership for his many years of tireless service on the legislative committee of the State F.O.P.—fighting for improved pension and salary benefits in the halls of the State Capitol; and

WHEREAS, Clyde Bishop is a loving husband and devoted father of two; and

WHEREAS, Clyde Bishop has been an active participant in civic and community organizations throughout the Northern Kentucky area;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Senate proudly honors and commends Clyde Bishop of Newport, Kentucky upon the occasion of being named the "F.O.P. Man of the Year".

Section 2. That this honorable body hails Clyde Bishop as an outstanding citizen and exemplary representative of the Commonwealth and lauds the unselfish efforts of one of Kentucky's native sons.

Section 3. That when the Senate of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Monday, October 19, 1987, it does so in honor of Clyde Bishop.

Section 4. That the Clerk of the Senate is hereby directed to transmit a copy of this resolution to Clyde Bishop, 1159 Waterworks Road, Newport, Kentucky, and to the National Fraternal Order of Police, 2100 Gardiner Lane, Louisville, Kentucky; and to the Newport Fraternal Order of Police, Lodge No. 2.

Adjournment

Senator Wright moved that the Senate adjourn until 10:00 a.m., Tuesday, October 20, 1987. Agreed.

TUESDAY, OCTOBER 20, 1987

FIFTH LEGISLATIVE DAY

The Senate was called to order by Lieutenant Governor Beshear.

Prayer by Dr. John Calloway, First Presbyterian Church, Frankfort, Kentucky.

The roll was called. All Senators present.

Senator Wright moved that the reading of the Journal of October 19, 1987, be dispensed with and the same approved. Agreed.

House Message

Announcing passage of **HB 1** and **HB 2**.

Recess

Senator Wright moved that the Senate be in recess for five minutes for the purpose of a meeting of the Committee on Committees at the Clerk's desk. Agreed.

At the appropriate time the president resumed the Chair and called the Senate to order.

The Chair stated that without objection the rules are suspended for the purpose of receiving report of committees.

Reference of Bills and Resolutions

The Clerk reported that the following bills have been referred by the Committee on Committees:

To the Committee of the Whole of the Senate: **HB 1** and **HB 2**.

Motions, Petitions and Communications

Senator Wright moved that the provisions of Rule 73, Rules of the Senate notwithstanding, that the Senate now resolve itself into a Committee of the Whole for the purposes of considering **HB 1** and **HB 2** of this Extraordinary Session, deliberating thereon, considering motions thereon, amendments thereto and following a roll call vote of the members of the Committee of the Whole making a report thereon to the Senate. Agreed.

Committee of the Whole

The Senate pursuant to the motion agreed to resolve itself into a Committee of the Whole.

The Chair appointed Senator John A. "Eck" Rose, President Pro Tempore, as Chairman of the Committee of the Whole.

At the appropriate time the President resumed the Chair and called the Senate to order.

The Chair stated that without objection the rules are suspended for the purpose of receiving report of committees.

Report of Committees

Committee of the Whole reported **HB 1** and **HB 2** with expression of opinion that same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 336.015 is amended to read as follows:

(1) There is hereby created a cabinet of state government to be named the labor cabinet. The cabinet shall be headed by a secretary who shall be appointed by the governor pursuant to KRS 12.040. The secretary shall have the duties, responsibilities, power and authority relating to labor, wages and hours, occupational safety and health of employes, child labor, [~~workers' compensation,~~] apprenticeship, and all other matters *except workers' compensation* heretofore under the jurisdiction of the commissioner and department of labor.

(2) The labor cabinet shall consist of the offices of the secretary, general counsel, administrative services and labor-management relations, and the departments of workplace standards and of workers' claims. The *commissioner* [~~commissioners~~] of the *department of workplace standards* [~~departments~~] within the labor cabinet shall be under the direction and control of the secretary of the labor cabinet.

(3) The secretary may appoint such personnel, including an ombudsman, as are necessary to perform the duties of the cabinet *provided, however, the secretary of labor may not appoint personnel necessary to perform the functions in the department of workers' claims.*

Section 2. KRS 336.020 is amended to read as follows:

(1) The department *of workplace standards* shall be headed by a commissioner, and shall be divided for administrative purposes into the divisions of employment standards and mediations; occupational safety and health compliance; [~~and~~] education and training for occupational safety and health*; and special fund.*

(2) The department of workers' claims shall be administered by a workers' compensation board, through a commissioner.

SECTION 3. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The department of workers' claims shall be responsible for administering claims and ensuring compliance with the insurance, self-insurance and rehabilitation provisions in this chapter. The department shall be headed by a commissioner hired by the board, who shall be responsible for overseeing the administration of claims and the administration of the insurance, self-insurance and rehabilitation provisions of this chapter.

Section 4. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter an owner or owners of a business, including *qualified* partners of a partnership owning a business, whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employe if such owner, owners, or *qualified* partners elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of such owners or partners to provide coverage for their employes *and non-qualified partners*, if any, required under this chapter.

(2) When an owner, owners or *qualified* partners have elected to be included as employes such shall be accomplished by the issuance of an appropriate endorsement to a *workers'* [~~workmen's~~] compensation insurance policy.

(3) For the purpose of this section "qualified partner" means a partner who has entered into a meaningful partnership agreement which shows on its face that the partner will substantially participate in the profit or loss of the business engaged in by the partnership and that the partner has made some contribution to the partnership which entitles him to participate in the profits of the business as well as to participate in the decision-making process of the partnership.

(4) For the purposes of this section "non-qualified partner" means a person who has entered into a partnership agreement which shows on its face that this person will receive regular payments in exchange for work for the business engaged in by the partnership; that the person will not participate in the decision-making

of the partnership and will not participate in the profits and losses of the business engaged in by the partnership.

Section 5. KRS 342.020 is amended to read as follows:

(1) In addition to all other compensation provided in this chapter, the employer shall pay for the cure and relief from the effects of an injury or occupational disease such medical, surgical and hospital treatment, including nursing, medical and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability, or as may be required for the cure and treatment of an occupational disease. The employe may select the physician to treat his injury, and the hospital in which he shall be treated.

(2) When a compensable injury or occupational disease results in the amputation of an arm, leg or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, the employer shall initially pay for in addition to the other medical, surgical and hospital treatment enumerated in subsections (1) and (2) of this section, a modern artificial member and where required, proper braces.

(3) Upon motion of the employer, with sufficient notice to the employe for a response to be filed, if it is shown to the satisfaction of the *administrative law judge* [~~board~~] by affidavits or testimony that because of the physician selected by the employe to treat his injury or disease, or because of the hospital selected by the employe in which he is being treated, that the employe is not receiving proper medical treatment and his recovery is being substantially affected or delayed; or that the funds for his medical expenses are being spent without reasonable benefit to the employe; or that because of the physician selected by the employe or because of the type of medical treatment being received by the employe that the employer will substantially be prejudiced in any compensation proceedings resulting from the employe's injury or disease; then the *administrative law judge* [~~board~~] may allow the employer to select a physician to treat the employe and the hospital or hospitals in which the employe is treated for his injury or disease. No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employe from any physician, hospital or attendant thereof.

(4) An employe who reports an injury alleged to be work-related or files an application for adjustment of a claim shall execute a waiver and consent of any physician-patient, psychiatrist-patient or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employe claims compensation. Notwithstanding any other provision in the Kentucky revised statutes, any physician, psychiatrist, chiropractor, podiatrist, hospital or health care provider shall, within a reasonable time after written request by the employe, employer, workers' compensation insurer, special fund, uninsured employers' fund, or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury for which the employe claims compensation.

Section 6. KRS 342.035 is amended to read as follows:

(1) *Within one hundred eighty (180) days following the effective date of this Act, the board shall promulgate administrative regulations to adopt a schedule of fees for the purpose of ensuring that* all fees and charges under KRS 342.020 shall be fair and reasonable[~~, shall be subject to regulation by the board~~] and shall be limited to such charges as are reasonable for similar treatment of injured persons of a like standard of living in the same community and where such treatment is paid for by the injured person himself. In determining what fees are reasonable, the board may also consider the increased security of payment afforded by this chapter.

(2) Any claim for excess fees shall be submitted to the administrative law judge for determination as to payment by the employer or special fund, but in no event shall the employe be held liable for excess fees.

(3)[~~(2)~~] Where such requirements are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting it. No compensation shall be payable for the death or disability of an employe if his death is caused, or if and insofar as his disability is aggravated, caused or continued, by an unreasonable failure to submit to or follow any competent surgical treatment or medical aid or advice.

Section 7. KRS 342.040 is amended to read as follows:

(1) Except as provided in KRS 342.020 no compensation shall be payable for the first seven days of disability unless disability continues for a period of more than two weeks in which case compensation shall be allowed from the first day of disability. All compensation shall be payable on the regular pay day of the employer, commencing with the first regular pay day after seven days after the injury or disability resulting from an occupational disease, with interest at the rate of twelve percent (12%) per annum on each installment from the time it is due until paid. In no event shall income benefits be instituted later than the 15th day after the employer has knowledge of the disability or death. Benefits shall be due and payable not less often than semimonthly. If the employer should terminate, or fail to make payments when due, the employer shall notify the board of such termination or failure to make payments and the board shall, in writing, advise the employe or known dependent of right to prosecute a claim under this chapter.

(2) All retraining incentive benefits awarded pursuant to Section 57 of this Act shall be payable on the regular pay day of the employer, commencing with the second regular pay day after the award of the retraining incentive benefit by the administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semimonthly.

Section 8. KRS 342.090 is amended to read as follows:

Payment of death benefits in good faith, to a supposed dependent or to a dependent subsequent in right to another or other dependents shall protect and discharge the employer and insurer unless and until the lawful dependent or dependents prior in right have given the employer or insurer written notice of his or their claim. In case the employer or insurer is in doubt as to who are dependents or as to their respective rights, the *administrative law judge* [~~board~~] shall, on application, decide and direct to whom payment shall be made, and payment made under such direction shall release the employer and insurer from all liability. If an appeal is taken from the order of the *administrative law judge* [~~board~~] directing payment, persons receiving payment under such order shall furnish bond for the protection of adverse claimants pending the outcome of the proceedings.

Section 9. KRS 342.120 is amended to read as follows:

(1) There is created the division of the special fund in the department of *workplace standards* [~~workers' claims~~] which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund. The division of special fund shall be headed by a director appointed by the commissioner, with the prior written approval of the governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) A claimant may in the original application for benefits, or either party may by motion while the case is pending, accompanied by proper allegations and by certification of the fact that a copy of the motion and the entire case file has been forwarded to the special fund at the cost of the movant, request the *administrative law judge* [~~board~~] to and the *administrative law judge* [~~board~~] shall, or upon *his* [~~its~~] own motion the *administrative law judge* [~~board~~] may, at any time before the rendition of the final award, cause the special fund to be made a party to the proceedings if either or both of the following appears:

(a) The employe is disabled, whether from a compensable injury, occupational disease, pre-existing disease, or otherwise, and has received a subsequent compensable injury by accident, or has developed an occupational disease;

(b) The employe is found to have a dormant non-disabling disease or condition which was aroused or brought into disabling reality by reason of a subsequent compensable injury by accident or an occupational disease.

(3) When the special fund has been made a party the *administrative law judge* [~~board~~] may direct the procedures provided in KRS 342.121.

(4) If it is found that the employe is a person mentioned in paragraphs (a) or (b) of subsection (2) of this section and a subsequent compensable injury or occupational disease has resulted in additional permanent disability so that the degree of disability caused by the combined disabilities is greater than that which would have resulted from the subsequent injury or occupational disease alone, and the employe is entitled to receive

compensation on the basis of the combined disabilities, the employer shall be liable for the payment of all income benefits until the benefits paid have reached a percentage of the full income benefits awarded by the *administrative law judge* [~~board~~] which is equal to the percentage of disability which would have resulted from the latter injury or occupational disease had there been no pre-existing disability or dormant, but aroused disease or condition.

(5) The remaining compensation for which such resulting condition would entitle the employe, including any compensation for disability resulting from a dormant disease or condition aroused into disabling reality by the injury or occupational disease, shall be paid out of the special fund provided for in KRS 342.122. Such remaining compensation shall be paid directly to the employe under such regulations as the secretary of finance and administration may provide for such purpose.

(6) In making the computation for the apportionment of benefits under this section, the *administrative law judge* [~~board~~] shall determine the amount of the employe's weekly income benefits and apportion the award between the employer and special fund as follows:

(a) For benefits awarded under KRS 342.730(1)(b), the portions shall be based on the number of weeks stated therein;

(b) For all other benefits awarded under this chapter, *except retraining incentive benefits awarded pursuant to Section 57 of this Act,* the portions shall be based on the *life expectancies contained in the overall male or female mortality tables* [~~number of weeks shown~~] in *the most recent available edition of the U.S. decennial life tables. If the most recent edition of the U.S. decennial life tables includes Kentucky tables, these tables shall be used. If it does not, the national tables shall be used* [~~actuarial tables adopted by regulations promulgated by the board~~].

SECTION 10. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

An award for income benefits for total or partial disability under this chapter based, in whole or in part, on a pre-existing disease or pre-existing condition of the back, or of the heart shall be apportioned, by the administrative law judge, fifty percent (50%) to the employer and fifty percent (50%) to the special fund. Apportionment required by this section shall not be a cause of appeal.

Section 11. KRS 342.121 is amended to read as follows:

(1) If on a claim for compensation for disability resulting from a subsequent injury by accident or occupational disease any medical question shall be in controversy, or a determination thereof necessary to the proper apportionment of liability therefor, the *administrative law judge* [~~board~~], acting on a proper motion from any interested party, may refer the case to a physician appointed by *him* [~~it~~] for the purpose of investigating and reporting to *him* [~~the board~~] on the medical questions involved. The physician shall make his report to the *administrative law judge* [~~workers' compensation board~~] in writing with respect to all medical questions at issue or necessary to the apportionment of disability between the subsequent injury and in the prior existing disability at the time of employment. The report shall show the date of prior disablement or latent, nondisabling disease, or condition, which, if in dispute, shall be deemed a medical question.

(2) The physician appointed as provided in subsection (1) of this section shall be allowed necessary traveling expenses and reasonable fees, to be fixed by the *administrative law judge* [~~board~~] to each physician for making such examination and report, plus a reasonable allowance for expenses incurred in making such examination. The *administrative law judge* [~~board~~] may also allow traveling expenses to the employe. Such fees and expenses so approved by the *administrative law judge* [~~board~~] shall be paid by the requesting party.

(3) The physician shall, as soon as practicable after he has completed his consideration of the case, but not later than fifteen (15) days after the examination of the employe, report in writing his findings on every medical question in controversy. The physician shall also include in his report a statement indicating the physician or physicians, if any, who appeared before him, and what, if any medical reports and X-rays were considered by him.

(4) The *administrative law judge* [~~board~~] may consider the report of the physician along with the other evidence in the case in arriving at *his* [~~its~~] decision or award, and any party in interest may take the deposition of the physician to be used as evidence in the case.

(5) The provisions of this section shall apply only to persons mentioned in KRS 342.120.

SECTION 12. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly finds and declares that the estimated projected unfunded liability of the workers' compensation special fund is one billion seven hundred million dollars ($1,700,000,000).

(2) The general assembly finds and declares that approximately seventy-eight percent (78%) of the total liability of the special fund over a five (5) year period ending in July, 1987, is attributable to employers who are engaged in the severance or processing of coal.

(3) The general assembly finds and declares that more than ninety-five percent (95%) of the total liability of the special fund for occupational disease is attributable to benefits awarded for coal workers' pneumoconiosis (black lung) claims to employes of employers engaged in the severance or processing of coal.

(4) The general assembly further finds and declares that approximately thirty percent (30%) of the total liability of the special fund for traumatic injuries is attributable to benefits awarded to employes of employers who are engaged in the severance or processing of coal; and

(5) The general assembly hereby finds and declares that the failure to satisfactorily fund the special fund liabilities or to make other satisfactory arrangements, and the corresponding unpredictability and inefficiency has imposed, and continues to impose, a substantial burden on employers of the Commonwealth whose assessments or taxes have heretofore been used to pay the special fund liabilities, and that if the burden on employers is allowed to continue unmitigated, there will be a resulting increase in unemployment and an out-migration of employers from the Commonwealth, and new employers will be discouraged from locating in the Commonwealth.

(6) Therefore, it is the intent of the general assembly in imposing the additional assessment required in paragraph (b) of subsection (1) of Section 13 of this Act to more nearly equate the level of assessment to the level of liabilities of the special fund and thus, the additional burden of assessment must rest upon employers engaged in the severance or processing of coal, as defined in KRS 342.620.

Section 13. KRS 342.122 is amended to read as follows:

(1) *(a)* [~~"Adjusted cost" as used in this section and in KRS 342.475 means all liability incurred for compensation, hospital and medical benefits to be paid pursuant to this chapter, except that any employer defined in KRS 342.630(2) may compute "adjusted cost" on the basis of benefits paid rather than liability incurred. "Adjusted cost" for all employers shall include an additional factor of twelve percent (12%) of such total liabilities or benefits paid. Each self-insured group and each employer carrying his own risk shall annually furnish payroll data and other information required to calculate "adjusted cost" to the revenue cabinet.~~

~~(2) In addition to the taxes and assessments imposed by KRS 342.450 and 342.475,~~] *For the purpose of funding and pre-funding the liabilities of the special fund, financing the administration and operation of the division of special fund, financing the administration and operation of the Kentucky workers' compensation funding commission, and, financing the expenditures for all programs in the labor cabinet except the division of employment standards and mediation and the office of labor-management relations, as reflected in the enacted budget of the commonwealth enacted by the general assembly,* a special fund *assessment* [~~tax~~] at the rate of [~~three-fourths (3/4%) of one percent (1%)~~] *twenty-three and three-tenths percent (23.3%)* [~~of~~] *is hereby imposed upon* the amount of *workers' compensation* premiums received [~~shall be paid~~] *on and after November 1, 1987,* by every insurance carrier *writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4)* [~~as defined in KRS 342.445, subject to the credits therein set out,~~] and *there is hereby imposed on and after November 1, 1987, a special fund assessment at the rate of twenty-three and three-tenths percent (23.3%)* [~~the revenue cabinet shall assess~~] against the [~~"adjusted cost"~~] *premium, as defined in KRS 342.620* of every employer carrying his own risk. [~~a special fund tax computed by taking three-fourths (3/4) of one percent (1%) of the "adjusted cost" determined as provided in KRS 342.475. The provisions of KRS 342.450, 342.455, 342.460, 342.465, and 342.470 shall, so far as applicable, also apply to the levy and collection of such additional tax of three-fourths (3/4) of one percent (1%) of such premiums of insurance carriers.~~]

(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional special fund assessment at the rate of forty percent (40%) is hereby imposed upon the amount of workers' compensation premiums received on and after November 1, 1987, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after November 1, 1987, an additional assessment at the rate of forty percent (40%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his own risk.

(c) The assessments imposed in this subsection shall be in lieu of all other assessments or taxes on such premiums.

(2) (a) On January 31, 1988, the funding commission shall determine the amount of funds produced from the special fund assessments imposed in subsection (1) of this section. If the funding commission determines that the special fund assessment rates imposed in subsection (1) of this section will produce more or less than a total of one hundred and ten million dollars ($110,000,000) during each year of a two-year period beginning April 1, 1988, the funding commission shall notify the general assembly not later than February 15, 1988, of such fact. At the time of such notification, the funding commission shall recommend adjustments to the assessment rates imposed in subsection (1) of this section, to ensure that seventy million dollars ($70,000,000) shall be produced from the assessment rate imposed in paragraph (a) of subsection (1) of this section and forty million dollars ($40,000,000) shall be produced from the assessment rate imposed in paragraph (b) of subsection (1) of this section.

(b) The general assembly shall adopt or modify the adjustments to the special fund assessment rates proposed by the funding commission. If the proposed rates are adopted or modified such rates shall become effective on April 1, 1988, and shall remain in effect until April 1, 1990, unless modified by the general assembly during the regular legislative session commencing in January, 1990.

(c) On or before October 1, 1989, and on or before October 1 of each odd-numbered year thereafter, the funding commission shall determine whether adjustments are necessary in the special fund assessment rates imposed in subsection (1) of this section. If the funding commission determines that adjustments are necessary, it shall report its recommendations by October 31 of such odd-numbered year to the governor and the appropriations and revenue committee of the general assembly. If the general assembly, in the regular legislative session, adopts or modifies the proposed adjusted assessment rates, such proposed adjusted assessment rates shall become effective on April 1 of that year.

(3) All [~~taxes and~~] assessments imposed by [~~subsection (2) of~~] this section shall be paid *to the Kentucky workers' compensation funding commission* [~~into the state treasury~~] and shall be credited to the *benefit reserve fund within the Kentucky workers' compensation funding commission.* [~~special fund and the Kentucky reinsurance association and shall be used only for awards of compensation made by the board and chargeable against the special fund, expenses of legal representation thereof, fees, expenses of the physicians in connection therewith, and expenses in connection with reinsurance obtained for the special fund and shall be withdrawn for that purpose under the supervision of the secretary of finance and administration.~~]

(4) *Such assessments shall be paid quarterly not later than the twentieth (20th) day of the month following the end of the quarter in which the premium is received. Such due date shall also apply to assessments owed by employers carrying their own risk.*

(5) The assessments herein imposed may be collected by the insurance carrier from his insured, provided however, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section.

(6) The funding commission, as part of the collection and auditing of the special fund assessments required herein, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each such employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employes, provided however, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The division of unemployment

insurance is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(7) Each self-insured employer, group self-insurer or insurance carrier shall provide any information and submit any reports the revenue cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(8) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. Such registry shall be established within ninety (90) days of the effective date of this Act for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund. [~~Any sum remaining in the special fund at the end of any fiscal year shall be set up by the finance and administration cabinet to the credit of such fund for the next ensuing fiscal year.~~

~~(5) (a) For liabilities for injuries and occupational diseases incurred on or after July 1, 1983:~~

~~1. If on an annual review of the special fund the secretary of finance and administration finds that the special fund tax to be levied pursuant to this section may be insufficient to pay prospective amounts which may be awarded under the special fund provisions, he shall advise the Kentucky reinsurance association in writing of such fact and shall further request and give specifications for the association to make a proposal for reinsuring the liabilities of the special fund and for distributing the cost of such reinsurance to the subscribers of the association. The proposal will contain a total cost for such reinsurance, including the administrative costs of making benefit payments and collecting premiums from subscribers. The total cost of reinsurance shall be distributed among the subscribers based on the "adjusted cost" of every subscriber unless the proposal sets forth another basis of cost distribution that the secretary of finance and administration finds to be more equitable than "adjusted cost."~~

~~2. The secretary of finance and administration shall then advertise for bids from qualified bidders for reinsurance of the liabilities of the special fund as set out in the proposal of the Kentucky reinsurance association.~~

~~3. If no other qualified bidder offers an arrangement more advantageous than that proposed by the Kentucky reinsurance association, the secretary shall enter an agreement for reinsurance of the special fund liabilities with the association as specified in the original written request. If another qualified bidder makes a bid more advantageous according to criteria established in the specifications, the secretary shall enter an agreement with such bidder for reinsurance of the special fund liabilities.~~

~~(b) For liabilities for injuries and occupational diseases incurred before July 1, 1983:~~

~~1. The secretary of finance and administration and the secretary of labor may determine whether such liabilities could be reinsured or otherwise transferred to the Kentucky reinsurance association in a manner calculated to minimize the costs of such liabilities and the processing of payments in connection therewith.~~

~~2. If the secretary of finance and administration and the secretary of labor find that the special fund tax to be levied pursuant to this section is insufficient to pay such claims, they shall advise the secretary of revenue in writing of such fact. The secretary of revenue may then levy additional assessments against all insurance companies writing workers' compensation insurance in Kentucky, all self-insurance groups operating under this chapter, and every employer carrying his own risk. The amount of each assessment shall be in the proportion that each assessment payer's "adjusted cost" bears to the total "adjusted cost" of all assessment payers.~~

~~(6) Except for a two percent (2%) collection fee allowance, all moneys charged the insured for assessments and taxes under this chapter and KRS Chapter 136 shall be paid into the state treasury and credited to the appropriate fund for which said assessment or tax is charged. In no case shall the moneys turned over be less than ninety-eight percent (98%) of the moneys charged.~~]

(9)[~~(7)~~] The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as herein set out and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

SECTION 14. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

Assessments levied pursuant to Section 13 of this Act and unpaid on the date on which they are due and payable shall bear interest at the rate specified in KRS 131.183 plus a penalty of one and one-half percent (1 1/2%) per month from the date such assessment was due and payable.

SECTION 15. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Every insurance carrier shall be entitled to a refund or credited with assessments paid on all cancelled or returned premiums, including dividends paid or credited to policyholders.

(2) The assessments paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580, provided that the claim for refund or credit is made by the carrier within four (4) years of the due date of the return or the date the assessments were paid, whichever is later.

(3) A claim for refund or credit shall be made on a form prescribed by the funding commission and shall contain such information as the funding commission may require.

(4) No insurance carrier shall be entitled to a refund or credit of the assessments paid pursuant to the provisions of this chapter where the assessments have been collected from an employer as provided by Section 13 of this Act, unless the amount of assessments collected from the employer are refunded to him by the insurance carrier who paid the assessments to the funding commission.

Section 16. KRS 342.125 is amended to read as follows:

(1) Upon its own motion or upon the application of any party [~~interested~~] and a showing of change of *occupational disability* [~~conditions~~], mistake or fraud or newly discovered evidence, the *administrative law judge* [~~board~~] may at any time *reopen and* review any award or order, *except as provided in subsection (2) of this section*, ending, diminishing or increasing the compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke *his* [~~its~~] previous order, sending immediately to the parties a copy of *his* [~~its~~] subsequent order or award. *Reopening and* review under this section shall be had upon notice to the parties [~~interested~~] and in the same manner as provided for an initial proceeding hereunder but shall not affect the previous order or award as to any sums already paid thereunder. [~~However,~~] The employer shall not suspend the payment of benefits during the pendency of any reopening procedures.

(2) *(a) Upon the application of the affected employe, and a showing of progression of his previously diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to such pneumoconiosis, the administrative law judge may review an award of a retraining incentive benefit because of such diagnosis, and upon a finding of respiratory impairment due to such pneumoconiosis shall make an award for benefits as provided in Section 57 of this Act. Such a reopening may also occur upon a showing of progression of respiratory impairment in a claim for which benefits were previously awarded under the provisions of Section 57 of this Act. An application for review under this subsection shall be made within one (1) year of the date the employe knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.*

(b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits previously awarded and, if applicable, also by the amount of income benefits previously awarded under Section 57 of this Act. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.

(3) Where an agreement has become an award by approval of the *administrative law judge* [~~board~~], and a *reopening and* review of such an award is initiated, no statement contained in the agreement, whether as to

jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the *administrative law judge* [~~board~~] as an admission against the interests of any party. The parties may raise any issue upon *reopening and* review of this type of award which could have been considered upon an original application for benefits.

Section 17. KRS 342.143 is amended to read as follows:

For the purposes of this chapter the average weekly wage of the state shall be determined by the *commissioner* [~~director~~] as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky unemployment insurance law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. Such average weekly wage shall be certified to the *commissioner* [~~director~~] by the department for human resources in a manner prescribed by the *workers'* [~~workmen's~~] compensation board by regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar ($1.00) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars ($2.00) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made.

Section 18. KRS 342.150 is amended to read as follows:

Whenever compensation has been paid for not less than six months, thereafter, on the application of all parties in any case where the *administrative law judge* [~~board~~] determines that it will be for the best interests of all parties and will not subject the employer or his insurer to an undue risk of overpayment, future payments of compensation or any part thereof may be commuted to a lump sum of an amount which will equal the total sum of the probable future payments so commuted, discounted at four percent true discount compounded annually on each payment. Upon payment of such lump sum all liability for the payments therein commuted shall cease.

Section 19. KRS 342.155 is amended to read as follows:

Whenever the *administrative law judge* [~~board~~] considers it expedient, any lump sum which is paid as provided in KRS 342.150 hereof shall be paid to any suitable person appointed by the district court of the county of the residence of the injured employe or of his dependents as trustee to administer or apply the same for the benefit of the person or persons entitled thereto. The receipt of such trustee for the amount so paid to him shall discharge the employer and his insurer. Except as otherwise herein specifically provided, the manner of qualification and the rights, duties and liabilities of *the* [~~such~~] trustee shall be determined by the general laws of this state.

Section 20. KRS 342.160 is amended to read as follows:

(1) The benefits in case of death shall be paid to [~~such~~] one or more dependents of the deceased employe for the benefit of all the dependents entitled thereto, as [~~are~~] determined by the *administrative law judge* [~~board~~]. The dependents to whom payments are made shall apply the same to the use of the persons entitled thereto under this chapter, according to their respective claims on the deceased for support. The compensation of a mentally disabled person shall be paid to his guardian or conservator.

(2) If the dependents are a widow, widower or other head of a family of minor children and one or more minor children, it shall be sufficient for the widow, widower or head of the family to make application for compensation on behalf of all. Where the dependents are mentally incapacitated or are minors the head of whose family is not a dependent, the application may be made by the guardian, conservator or next friend of such dependents.

Section 21. KRS 342.197 is amended to read as follows:

(1) No employe shall be harassed, coerced, discharged, or discriminated against in any manner whatsoever for filing and pursuing a lawful claim under this chapter.

(2) It is unlawful practice for an employer:

(a) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against an individual with respect to his compensation, terms, conditions, or privileges of employment, because such individual has been diagnosed as having category 1/0, 1/1, or 1/2 occupational pneumoconiosis with no respiratory impairment resulting from exposure to coal dust; or

(b) To limit, segregate, or classify his employes in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect his status as an employe, because such individual has been diagnosed as having category 1/0, 1/1, or 1/2 occupational pneumoconiosis with no respiratory impairment resulting from exposure to coal dust.

(3) Any individual injured by any act in violation of the provisions of subsection (1) or (2) of this section shall have a civil cause of action in circuit court to enjoin further violations, and to recover the actual damages sustained by him, together with the costs of the law suit, including a reasonable fee for his attorney of record.

(4) In addition to the remedy provided in subsection (3) of this section, an employe may file a complaint of discrimination under this section with the labor cabinet on forms provided by the cabinet and the labor cabinet shall:

(a) Investigate the complaints;

(b) If there is probable cause to believe an act of discrimination has occurred, it shall;

(c) Notify the employer of the time, date and place of a hearing thereon;

(d) Hold a hearing to determine whether or not an act of discrimination has occurred;

(e) If an act of discrimination is established, the cabinet shall assess a civil penalty of up to five thousand dollars ($5,000);

(f) Establishment of discrimination is prima facie evidence of violation of subsection (2) of this section.

Section 22. KRS 342.205 is amended to read as follows:

(1) After an injury and so long as compensation is claimed, the *employe* [~~workman~~], if requested by a party or by the *administrative law judge* [~~board~~], shall submit himself to examination, at a reasonable time and place, to a duly qualified physician or surgeon designated and paid by the requesting party. The employe shall have the right to have a duly qualified physician or surgeon designated and paid by himself present at such examination, but this right shall not deny the requesting party's physician or surgeon the right to examine the injured employe at all reasonable times and under all reasonable conditions.

(2) If an employe refuses to submit himself to or in any way obstructs such examination his right to take or prosecute any proceedings under this chapter shall be suspended until such refusal or obstruction ceases. No compensation shall be payable for the period during which the refusal or obstruction continues.

(3) Any employe receiving benefits under this chapter may be required, upon request of any party, to furnish a sworn affirmed statement of earnings and such other supporting information as the *administrative law judge* [~~board~~] may require.

(4) The board shall supply forms for such report.

Section 23. KRS 342.215 is amended to read as follows:

(1) The workers' compensation board is hereby created and established. The board, through the commissioner, shall exercise complete authority over the administration of the department of workers' claims and shall rule on appeals of decisions rendered by administrative law judges under this chapter.

(2) The workers' compensation board shall consist of *three (3)* [~~five (5)~~] members appointed by the governor [~~and shall be attached to the labor cabinet for administrative services~~]. *Each member shall hold no other public office and shall devote his full time to the duties of his office.*

(3)[~~(1)~~] Of the members first appointed under this *Act* [~~chapter~~] one shall serve *a term of two (2) years* [~~until January 1, 1974~~]; one *a term of three (3) years* [~~until January 1, 1975~~]; *and* one *a term of four (4) years, as designated by the governor at the time of the appointments* [~~until January 1, 1976; and two until January 1, 1977~~]. Thereafter, each term shall run for four (4) years from the date of expiration of the term for which *the member's* [~~his~~] predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of [~~such~~] a term shall be appointed for the remainder of the term. Each member of the board shall hold office until his successor is appointed and qualifies. The members of the board shall have the qualifications required of *appeals court* [~~circuit~~] judges, *except for residence in a district, and shall receive the same salary and shall be subject to the same standards of conduct.* The governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the governor. The governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing if he requests it. [~~Each member of the board shall be paid a salary in accord with the provisions of KRS 64.640.~~]

(4)[~~(2)~~] A decision concurred in by any *two (2) of the* three (3) members shall constitute a decision of the board [~~; unless there are two (2) unfilled vacancies in which case a majority of the remaining members shall constitute a decision of the board~~].

(5)[~~(3)~~] The terms of all members of the workers' compensation board who are in office prior to the effective date of this *Act* [~~chapter~~] shall automatically expire *one hundred eighty (180) days following its effective date. In addition to rendering decisions, awards and orders, the members shall assist in training the newly appointed full-time members of the workers' compensation board created pursuant to this Act and the newly employed administrative law judges* [~~on January 1, 1973, any other statute to the contrary not withstanding~~].

(6) Members of the workers' compensation board and the administrative law judges shall be members of the Kentucky employes retirement system.

SECTION 24. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (3) of this section the governor shall make all appointments to the board by choosing one (1) of three (3) names presented to him by the workers' compensation board nominating commission.

(2) The workers' compensation board nominating commission shall consist of seven (7) members appointed by the governor as follows:

(a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years.

(b) 1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and

2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.

3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.

(c) Appointments to fill the unexpired term of a member shall be for the remainder of the term.

(3) The initial appointments to the board created pursuant to this Act shall be made by the governor from a list of nine (9) names submitted by the nominating commission on the first Monday in January, 1988.

Section 25. KRS 342.230 is amended to read as follows:

(1) Upon the recommendation of the *commissioner* [~~director~~], the board, within the limits of appropriations therefor, shall establish and fill any positions, including medical services and advice, necessary to carry on the board's work. *The employes of the department of workers' claims, except the commissioner, administrative law judges and board members, shall be members of the classified service.*

(2) The *board* [~~governor~~] shall *employ* [~~appoint~~] a *commissioner* [~~director of the board who shall also serve as the director of the division of workers' compensation within the labor cabinet~~]. The *commissioner* [~~director~~] shall have immediate supervision of the employes of the *department* [~~board~~], perform such duties as are assigned him, and have complete authority, *on behalf of the board,* to carry out all the administrative functions *relating to the* [~~of the~~] *department* [~~division~~] of workers' *claims* [~~compensation. The director shall be an attorney who has been admitted to practice law in Kentucky and shall have practiced law for at least three (3) years~~]. *The commissioner* [~~He~~] shall keep and be the custodian of the records of the board *and the administrative law judges,* shall annually report the activities of the board *and administrative law judges* to the governor, and shall devote his full time to the duties of his office. He shall receive a salary to be fixed by the *board* [~~governor~~].

(3) The *board* [~~governor~~] shall *employ* [~~appoint~~] not more than *ten (10) administrative law judges* [~~the number of hearing officers authorized by regulation of the board~~], each of whom shall *have the qualifications of a circuit judge, except residence in a district, and shall be paid the same salary and shall be subject to the same standards of conduct* [~~be an attorney admitted to practice law in Kentucky and shall have practiced law for at least three (3) years~~]. These *administrative law judges* [~~officers, upon the direction of the director or the board,~~] shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by *statute and* [~~the director or the board except that such hearing officers~~] shall [~~not~~] render final decisions, orders, or awards. [~~However such~~] *Administrative law judges* [~~Hearing officers~~] may, in receiving evidence [~~on behalf of the board~~], make such rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.

2(4) The board may at any time *remove* [~~recommend the removal of~~] the *commissioner. The board may remove* [~~director or~~] any *administrative law judge for violation of the code of judicial ethics* [~~hearing officer upon filing with the governor a full written statement of its reasons for such removal~~].

Section 26. KRS 342.240 is amended to read as follow:

The board shall maintain its main offices in Frankfort, Kentucky, using suitable rooms and offices belonging to this state, and shall be provided necessary office furniture to be paid for by the state. The board shall provide necessary supplies, books and periodicals and maps and shall provide itself with a seal for the authentication of its orders, awards or proceedings *and those of the administrative law judges,* on which shall be inserted the words *"Workers'* [~~"Workmen's~~] Compensation Board, State of Kentucky, official seal." The board *and the administrative law judges* may hold sessions at any place within the state where necessary and shall have power to sue or institute legal proceedings in any court of this state, under existing laws as to jurisdiction of actions. Unless consented to by the board, all actions or proceedings against it or a member in his official capacity, *or against an administrative law judge or the commissioner in his official capacity* [~~as such~~] shall be brought in the courts of Franklin County.

Section 27. KRS 342.245 is amended to read as follows:

All proceedings of the board *and the administrative law judges* shall be recorded in [a] *books* [~~book~~] kept for that purpose by the *commissioner* [~~director~~], which shall constitute a public record and shall contain an entry of each case, claim or proceeding considered, heard or passed upon by *each administrative law judge and* the board [~~or a member thereof~~], with the award, finding or decisions made thereon.

SECTION 28. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

In a claim for benefits, no party may introduce direct testimony from more than three (3) physicians without prior consent from the administrative law judge. The motion requesting additional testimony shall clearly demonstrate the need for such additional testimony. A party may introduce direct testimony from a treating or non-treating physician through a written medical report. Such report shall become a part of the evidentiary record, subject to the right of an adverse party to object to the admissibility of such report and to cross-examine the reporting physician. The board shall promulgate administrative regulations prescribing the format and content of written medical reports.

Section 29. KRS 342.260 is amended to read as follows:

(1) The board shall prepare such *administrative* [~~rules and~~] regulations as it considers necessary to carry on its work *and the work of the administrative law judges* and may *promulgate* [~~make~~] *administrative regulations* [~~rules~~] not inconsistent with this chapter *and KRS Chapter 13A* for carrying out the provisions of this chapter.

(2) Processes and procedure under this chapter shall be as summary and simple as reasonably possible. The board or any member thereof *or any administrative law judge* for the purpose of this chapter, may subpoena witnesses, administer or cause to have administered oaths and examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to *questions* [~~question~~] in dispute.

(3) The sheriff shall serve all subpoenas of the board *and administrative law judges* and shall receive the same fee as provided by law for like service in civil actions. Each witness who appears in obedience to such subpoena of the board *or any administrative law judge* shall receive for attendance the fees and mileage for witnesses in civil cases in the circuit courts.

(4) The circuit court shall, on application of the board, [~~or~~] any member thereof, *or any administrative law judge,* enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and records.

Section 30. KRS 342.265 is amended to read as follows:

If the employe and employer reach an agreement conforming to the provisions of this chapter in regard to compensation, a memorandum of the agreement shall be filed with the *administrative law judge* [~~board~~], and, if approved by *him* [~~it~~], shall be enforceable as [~~is herein~~] provided *in KRS 342.305* [~~for the enforcement of awards by the board~~]. Nothing herein shall prevent the voluntary payment of compensation in the amounts and for the periods prescribed in this chapter without formal agreement, but nothing shall operate as a final settlement except a memorandum of agreement filed with *the administrative law judge* and approved by the *administrative law judge* [~~board~~] in accordance with this section. No limitations of time shall begin to run until the date upon which *the* [~~such~~] agreement is filed with and approved by *the administrative law judge* [~~the board~~].

Section 31. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application to the board for a hearing in regard to the matter at issue and for a ruling thereon. *The* [~~Such~~] application must be filed within two years after the accident, or, in case of death, within two years after such death, or within two years after the cessation of voluntary payments, if any have been made.

(2) Except with respect to uncontested claims for *retraining incentive benefits by reason of occupational pneumoconiosis related to exposure to coal dust, or for* disability or death by reason of occupational diseases, *within thirty (30) days* [~~as soon as possible~~] after the application has been received the *commissioner* [~~board~~] shall set the date for a *pre-hearing conference* [~~hearing~~], to be held as soon as practicable in view of the matter involved, and shall notify the parties at issue of the time and place of *the pre-hearing conference* [~~such hearing~~].

(3) [~~Unless otherwise agreed to by the parties and authorized by the board, the hearing~~] *The pre-hearing conference* shall be held at or convenient to the place where the *employe resides provided that such hearing shall be held within the boundaries of the Commonwealth* [~~injury was sustained or the ground for disagreement occurred~~]. [~~Before directing a hearing, the board, a member thereof, the director or a~~] *At the pre-hearing conference, an administrative law judge* [~~hearing officer authorized by the board,~~] *shall* [~~may~~] confer informally with the parties at issue *and their counsel, if any, for the purpose of defining and narrowing the*

issues, discussing settlement, and considering other relevant matters that may aid in the disposal of the case. If agreement upon any matter is reached, the administrative law judge shall write a memorandum setting forth the matters agreed upon. The administrative law judge and all parties shall sign the memorandum, and the administrative law judge shall file it with the board. Once filed, the memorandum shall become a part of the record [~~in an attempt to assist in adjusting their differences, but may not delay the granting of a hearing, over the objection of either party, for such purpose~~].

(4) If the parties have previously filed an agreement which has been approved by the *administrative law judge* [~~board~~] and compensation has been paid or is due in accordance therewith and the parties thereafter disagree either party may invoke the provisions of KRS 342.125 which remedy shall be exclusive.

(5) An application for adjustment of claim shall be held in abeyance by the *administrative law judge* [~~board~~] during any period voluntary payments of compensation are being made under any benefit sections of this chapter to the maximum which the employe's wages shall entitle him, unless it shall be shown that the prosecution of the employe's claim would be prejudiced by delay.

Section 32. KRS 342.275 is amended to read as follows:

[~~Except with respect to uncontested claims for disability or death by reason of occupational diseases~~] *In any claim in which settlement is not reached at the pre-hearing conference, the administrative law judge* [~~, the board, or any of its members, the director or any hearing officer~~] *shall schedule the matters at issue for hearing within sixty (60) days from the date of the pre-hearing conference in a location at or convenient to the place where the employe resides provided that such conference shall be held within the boundaries of the Commonwealth. The administrative law judge may grant continuances according to criteria established in administrative regulations promulgated by the board. The commissioner shall notify the parties at issue of the time and place of the hearing. The administrative law judge shall render the award, order or decision within thirty (30) days following the hearing.* [~~directed by the board shall hear the parties at issue and their representatives and witnesses and the full board shall determine the dispute in a summary manner. The award, order or decision shall be made within thirty (30) days after final submission, except in cases involving large or complicated records or unusual questions of law, and shall be made within sixty (60) days after final submission in any event. However, if the award, order or decision is not rendered within thirty (30) days the board shall notify the parties in dispute setting out the reasons for such delay.~~] The award, order or decision, together with a statement of the findings of fact, rulings of law and any other matters pertinent to the question at issue shall be filed with the record of proceedings, and a copy of the award, order or decision shall immediately be sent to the parties in dispute.

Section 33. KRS 342.281 is amended to read as follows:

Within fourteen (14) days from the date of the award, order or decision any party may file a petition for reconsideration of the award, order, or decision of the *administrative law judge* [~~full board~~]. The petition for reconsideration shall clearly set out the errors relied upon with the reasons and argument for reconsideration of the pending award, order, or decision. All other parties shall have ten (10) days thereafter to file a response to the petition. The *administrative law judge* [~~board~~] shall be limited in such review to the correction of errors patently appearing upon the face of the award, order, or decision and shall overrule the petition for reconsideration or make such correction within ten (10) days after submission.

Section 34. KRS 342.285 is amended to read as follows:

(1) An award or order of the *administrative law judge* [~~board~~] as provided in KRS 342.275, if petition for reconsideration is not filed as provided for in KRS 342.281, shall be conclusive and binding as to all questions of fact, but either party may *in accordance with administrative regulations promulgated by the board* [~~within twenty days after the rendition of such final award or order of the board, by petition~~] appeal to the *workers' compensation board* [~~circuit court that would have jurisdiction to try an action for damages for the injuries if this chapter did not exist,~~] for the review of such order or award[~~, the board and the adverse party being made respondents. The board shall be named respondent as the workmen's compensation board, and service shall be had on the director~~].

(2) [~~The petition shall state fully the grounds upon which a review is sought, and assign all errors relied on. Summons shall issue upon the petition directing the adverse party to file answer and cross-appeal, if~~

~~appropriate, within twenty days after service thereof and directing the board to send its entire original record, properly bound, to the clerk of the circuit court, after certifying that such record is its entire original record, which shall be filed by the clerk of the circuit court and such record shall then become and be considered by the circuit court on the review.~~

~~(3)~~] No new or additional evidence may be introduced *before the board* [~~in the circuit court~~] except as to the fraud or misconduct of some person engaged in the administration of this chapter and affecting the order, ruling or award, but the *board* [~~court~~] shall otherwise hear the *appeal* [~~cause~~] upon the record as certified by the *administrative law judge* [~~board~~] and shall dispose of the *appeal* [~~cause~~] in summary manner. The *board* [~~court~~] shall not substitute its judgment for that of the *administrative law judge* [~~board~~] as to the weight of evidence on questions of fact, its review being limited to determining whether or not:

(a) The *administrative law judge* [~~board~~] acted without or in excess of *his* [~~its~~] powers;

(b) The order, decision, or award was procured by fraud;

(c) The order, decision, or award is not in conformity to the provisions of this chapter;

(d) The order, decision, or award is clearly erroneous on the basis of the reliable, probative, and material evidence contained in the whole record; or

(e) The order, decision, or award is arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(3)[~~(4) The board and each party may appear in such review proceedings;~~] *Within thirty (30) days from final submission,* the *board* [~~court~~] shall enter *its decision* [~~judgment~~] affirming, modifying or setting aside the order, decision or award, or in its discretion remanding the *claim* [~~cause~~] to the *administrative law judge* [~~board~~] for further proceedings in conformity with the direction of the *board* [~~court~~]. The *board* [~~court~~] may, before *decision* [~~judgment~~] and upon a sufficient showing of fact, remand the *claim* [~~cause~~] to the *administrative law judge* [~~board~~].

[~~(5) The appeal shall be advanced on the circuit court docket without motion or notice.~~]

Section 35. KRS 342.290 is amended to read as follows:

[~~(1)~~] The *decision* [~~judgment~~] of the *board* [~~circuit court~~] shall be subject to *review by* [~~appeal to~~] the Court of Appeals *pursuant to Section 111 of the Kentucky Constitution and rules adopted by the Supreme Court.* The scope of review by the Court of Appeals shall include all matters subject to review by the *board* [~~circuit court~~] and also errors of law arising *before the board* [~~in the circuit court~~] and [~~upon appeal~~] made reviewable by the *rules of the Supreme Court for review of decisions of an administrative agency.* [~~Rules of Civil Procedure where not in conflict with this chapter.~~

~~(2) The procedure as to appeal to the Court of Appeals shall be the same as in civil actions, so far as it is applicable to and not in conflict with this chapter.~~

~~(3) The appeal shall be advanced on the Court of Appeals docket without motion or notice.~~]

Section 36. KRS 342.295 is amended to read as follows:

The [~~circuit court or the~~] court of appeals may make such rule or order as it may deem necessary for the safekeeping, transporting and return of such original records of the *workers'* [~~workmen's~~] compensation board to the [~~said~~] board when the judgment in the case becomes final, provided that a copy of the final judgment shall be returned with each record. When any appeal has become final the clerk of the court of appeals shall return such original record to the *workers'* [~~workmen's~~] compensation board, *which* [~~who~~] shall safely keep the same. At all times thereafter such record shall remain a part of the record of the case in the court of appeals, though kept in the possession of the *workers'* [~~workmen's~~] compensation board.

Section 37. KRS 342.300 is amended to read as follows:

Upon motion of either party and a sufficient showing of reason and necessity therefor, the *court of appeals* [~~circuit court~~] to which an appeal is taken may continue in force the award, judgment, or order appealed from, pending its decision of such appeal, but to be suspended upon the execution by the adverse party of a supersedeas bond [~~for appeal to the Court of Appeals~~].

Section 38. KRS 342.305 is amended to read as follows:

Any party in interest may file in the circuit court of the county in which the injury occurred a certified copy of a memorandum of agreement approved by the *administrative law judge* [~~board~~] or of an order or decision of the *administrative law judge or* board, or of an award of the *administrative law judge* [~~board~~] on appeal from, or an award of the board rendered upon an appeal whether or not there is a motion to reopen or review pending under KRS 342.125. The court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same as though it had been rendered in a suit duly heard and determined by that court. Any such judgment, unappealed from or affirmed on appeal or modified in obedience to the mandate of the Court of Appeals shall be modified to conform to any decision of the *administrative law judge* [~~board~~] ending, diminishing or increasing any weekly payment under the provisions of KRS 342.125 upon a presentation to it of a certified copy of such decision.

Section 39. KRS 342.310 is amended to read as follows:

If *any administrative law judge,* the board or any court before whom any proceedings are brought under this chapter determines that such proceedings have been brought, prosecuted or defended without reasonable ground, *he or* it may assess the whole cost of the proceedings which shall include actual expenses but not be limited to the following: court costs, travel expenses, deposition costs, physician expenses for attendance fees at depositions, attorney fees, and all other out-of-pocket expenses upon the party who has so brought, prosecuted or defended them.

Section 40. KRS 342.315 is amended to read as follows:

(1) *An administrative law judge* [~~The board, or any member thereof,~~] may, upon the application of either party or upon *his* [~~its~~] own motion, appoint not more than three (3) disinterested and duly qualified physicians or surgeons to make any necessary medical examination of the employe and to testify in respect thereto. Such physicians or surgeons shall file with the *administrative law judge* [~~board~~] within fifteen (15) days after such examination their joint report in writing. The physicians or surgeons shall be allowed a reasonable fee to be fixed by the *administrative law judge* [~~board~~] and paid out of the *special* [~~maintenance~~] fund, not exceeding seventy-five dollars ($75.00) for each examination and report, except that the *administrative law judge* [~~board~~] may allow additional reasonable amounts in extraordinary cases and the reasonable cost of X-rays, if any; the *administrative law judge* [~~board~~] may in *his* [~~its~~] discretion allow a fee not in excess of twenty-five dollars ($25.00) for any deposition given by such physicians or surgeons.

(2) The party filing the motion for an examination shall pay the necessary and reasonable traveling expenses incurred by the employe in submitting to such examination. If the examination is ordered on the *administrative law judge's* [~~board's~~] own motion, then such traveling expenses shall be paid out of the *special* [~~maintenance~~] fund.

Section 41. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employe was last exposed to the hazard of the occupational disease during any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973 shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator. Said employer shall have the right to contribution from each previous employer, as determined in an independent civil action, wherein the employe was similarly exposed to the hazard of said occupational disease, in a sum equal to the ratio that each exposure employment time bears to the total exposure employment time except as otherwise provided in paragraph (a) of subsection *(10)* [~~(13)~~] of this section; and

(b) The time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, *except that the time of the beginning of retraining incentive benefits awarded under Section 57 of this Act shall be the date the award for such benefits by the administrative law judge becomes final.*

(2) (a) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to such disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted such disease, or a diagnosis of such disease is first communicated to him, whichever shall first occur;

(b) The procedure with respect to filing of claims shall be as follows:

1. *a.* The application shall set forth the *complete* work history of the applicant with a concise description of injurious exposure to a specific occupational disease together with the name and addresses of *the* employer or employers with the approximate dates of employment. *The application* [~~and~~] shall also include [~~with the application~~] *at least* two (2) written medical reports supporting his claim. These medical reports shall be made on the basis of comprehensive clinical examinations *performed in accordance with accepted medical standards* and shall contain full and complete statements of *all examinations performed and* the results thereof. The reports shall be made by duly licensed physicians. *Within one hundred and eighty (180) days following the effective date of this Act, the board shall promulgate administrative regulations which prescribe the format of the medical reports required herein and the manner in which such reports shall be completed.*

b. For coal-related occupational pneumoconiosis claims, each [~~the~~] clinical examination shall include *chest* x-ray examinations *and spirometric tests.* [~~However, the failure of an x-ray examination to disclose the presence of an occupational disease shall not affect the legal presumption referred to in subsection (5) of this section.~~]

c. For other compensable occupational pneumoconiosis claims, each clinical examination shall include x-ray examinations and appropriate pulmonary function tests.

2. To be admissible, medical evidence offered in any proceeding under this chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust, shall comply with accepted medical standards as follows:

a. Chest x-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the x-ray and the name and social security number of the claimant. Physicians' reports of x-ray interpretations shall: identify the claimant by name and social security number; include the date of the x-ray and the date of the report; classify the x-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of the latest ILO Classification report.

b. Spirometric testing shall be conducted in accordance with the standards recommended in the latest edition available of the guides to the evaluation of permanent impairment published by the American medical association and the 1978 ATS epidemiology standardization project. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater. Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken.

[~~The filing of a properly executed application for adjustment of claim, accompanied by the two (2) medical reports described in subparagraph 1. Of this paragraph, shall satisfy the requirements of the presumptive clause set out in subsection (5) of this section and the burden of proof shall immediately thereafter shift to the employer;~~]

3. The board shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of this section. The board shall periodically review the applicability of the spirometric test values contained in the latest edition available of the guides to the evaluation of permanent impairment published by the American medical association and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.

(c) The procedure with respect to the determination of claims shall be as follows:

1.[~~3.~~] Immediately upon receipt of said application for adjustment of claim, the *commissioner* [~~board~~] shall notify the affected employer, the special fund and any other interested party of such claim and shall furnish them with a full and complete copy of the claim;

2.[~~4.~~] Upon receipt of notice of *the* claim the employer, the special fund, and any other interested party shall have the right to have the claimant examined by competent medical experts, at their expense, including a reasonable sum for travel. *Within thirty (30) days of* [~~After~~] *any such* [~~said~~] examination, the claimant or his representative shall be furnished a copy of said medical report *by the party requesting such report* [~~within a reasonable time~~]. Also, the employer, the special fund, or any other party to the claim shall have the right to have the claimant evaluated by vocational experts or institutions, at their expense, including a reasonable sum for travel. *Within thirty (30) days of any such* [~~After said~~] examination, the claimant or his representative, shall be furnished a copy of said vocational report *by the party requesting such report.* [~~within a reasonable time~~]; and

3.[~~5.~~] Within *sixty (60)* [~~ninety (90)~~] days of the receipt of *the claim* [~~notice by the employer of the filing of the claim~~], the employer, the special fund, and any other interested party shall notify the board and the claimant whether or not the claim will be resisted. If the claim is not resisted, then *an administrative law judge* [~~the board~~] shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the *administrative law judge* [~~board~~] shall set a date for a *pre-hearing conference* [~~hearing~~] and shall notify all parties thereof. In litigated claims the regular procedures prescribed by the workers' compensation board shall be followed. *Upon request of an interested party and a showing of good cause the administrative law judge may extend, one time, the time period for filing a notice of resistance as prescribed in this subparagraph, provided said extension shall not exceed thirty (30) days.*

(3) *(a)* The right to compensation under this chapter [~~for disability~~] resulting from an occupational disease shall be forever barred unless a claim is filed with the workers' compensation board within three (3) years after the last injurious exposure to the occupational hazard or after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within said period, unless a claim therefor be filed with the workers' compensation board within three (3) years after such death; provided, however, that notice of such claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employe, and its cause was known to the employer. Provided, however, that the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the workers' compensation board within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease or asbestos-related disease, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.

(b) Income or retraining incentive benefits for the disease of pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employe has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years immediately preceding the date of his last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.

(4) The amount of compensation payable for disability due to occupational disease or for death from such disease, and the time and manner of its payment, shall be as provided for under the general provisions of the workers' compensation act, but in no event to exceed such amounts as were in effect at the time of the last injurious exposure, and provided further, that the time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, and provided further, that in case of death where the employe has been awarded

compensation or made timely claim within the period provided for in this section, an employe has suffered continuous disability to the date of his death occurring at any time within twenty (20) years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the workers' compensation act and in this section.

[~~(5) Where the occupational disease is a compensable pneumoconiosis and there has been employment exposure for ten (10) years or more to an industrial hazard sufficient to cause the disability of pneumoconiosis there shall be a rebuttable presumption that the disability or death was due to the compensable pneumoconiosis.~~

~~(6) Where the employe is suffering or suffered from a chronic dust disease of the lung which:~~

~~(a) When diagnosed by chest roentgenogram, yields one (1) or more large opacities (greater than one (1) centimeter in diameter) and would be classified in category A, B, or C in the international classification of radiographs of the pneumoconiosis by the international labor organization;~~

~~(b) When diagnosed by biopsy or autopsy, yields massive lesions in the lung; or~~

~~(c) When diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in paragraph (a) or (b) of this subsection if diagnosis had been made in the manner prescribed in paragraph (a) or (b) of this subsection, then there shall be an irrebutable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, as the case may be.~~

~~(7) In case of disability or death from silicosis, coal workers' pneumoconiosis, or any other compensable pneumoconiosis complicated with tuberculosis of the lungs, pulmonary emphysema or other pulmonary dysfunction and there has been employment exposures to harmful dust or industrial hazards reasonably competent to produce such accompanying disease or dysfunction, there is a rebuttable legal presumption that all resultant disability therefrom is work related and compensable, and compensation shall be payable as for the uncomplicated disease, provided, however, that the disease or dysfunction was an essential factor in causing such disability or death~~].

(5)[~~(8)~~] If an autopsy has been performed, no testimony relative thereto shall be *admitted* [~~competent~~] unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(6)[~~(9)~~] No compensation shall be payable for occupational disease if the employe at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of such disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(7)[~~(10)~~] No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, save only to after-born children of a marriage existing at the beginning of such disability.

(8)[~~(11)~~] Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury, disability or death which was the basis for such application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for such injury, disability or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the *administrative law judge* [~~board~~] when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required herein.

(9)[~~(12)~~] When an employe has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier; except as otherwise provided herein.

(10)[~~(13)~~] (a) *Except as provided in paragraph (c) of this subsection,* the employer liable for compensation for occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, shall be the employer in whose employment the employe was last exposed to the hazard of such occupational disease. In those cases where disability or death are not conclusively proven to be the result of such last exposure all compensation shall be paid out of the special fund for all claims filed prior to January 1, 1973; and seventy-five percent (75%) shall be paid by the special fund and twenty-five percent (25%) by the employer for all claims filed thereafter. In all other cases of occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, the compensation for disability or death due to such diseases shall be paid jointly by the employer and the special fund, and the employer shall be liable for sixty percent (60%) of the compensation due and the special fund shall be liable for forty percent (40%) of the compensation due. Provided, however, that when there is a joint award against the carrier or self-insured employer and the special fund under this section, all of the compensation awarded shall be paid pursuant to KRS 342.120 and under such regulations as the board may provide for such purpose; and

(b) In all claims for compensation partially payable by the special fund the *director of the division of the special fund* [~~secretary of labor~~] shall be designated as codefendant.

(c) The employer in whose employment the employe was last exposed to the hazard of the disease shall alone be liable for payment of retraining incentive benefits awarded under Section 57 of this Act.

Section 42. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of the *administrative law judge pursuant to the statutes and administrative regulations* [~~board~~]. *In an original claim,* no attorney fees shall be allowed or approved against any party not represented by said attorney, nor shall any attorney fee be allowed or approved exceeding an amount equal to 20 percent of the first $25,000.00, 15 percent of the next $10,000.00 and 5 percent of the remainder of the amount recovered as actuarily determined on past and future benefits according to the *life expectancies contained in the overall male or female mortality tables in the most recent available edition of the U.S. decennial life tables* [~~American Experience Table of Mortality~~] and the Remarriage Tables of the Dutch Royal Insurance Institute. *If the most recent edition of the U.S. decennial life tables includes Kentucky tables, those tables shall be used. If it does not, the national tables shall be used.* In no case shall the fee exceed $6,500.00. Provided, however, the *administrative law judge* [~~board~~], in making an allowance of attorney fees, shall in each case examine the record to ascertain the extent of the services rendered, and fix a reasonable fee for the services rendered, not to exceed the maximum authorized by this section. The *administrative law judge* [~~board~~] may reduce the attorney's fee to an amount commensurate with the services performed, or may deny or reduce an attorney's fee upon proof of solicitation of employment. Any award made to a claimant in a nonresisted claim as established under the provisions of KRS 342.316 [~~(2)(b), paragraph 5,~~] shall result in an award of an attorney fee not exceeding $750.00.

(2) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the *administrative law judge* [~~board~~], and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. *The motion for approval of an attorney fee shall be submitted within thirty (30) days following finality of the last appealable order of the administrative law judge. The attorney fee shall be paid in one of the following ways:*

(a) The entire attorney's fee in a lump sum shall be paid directly to the attorney of record and the administrative law judge shall order the payment of same commuting sufficient of the final payments of compensation payable under the award to a lump sum for that purpose; or

(b) The claimant may pay the attorney's fee out of his personal funds; or

(c) The administrative law judge, upon request of the claimant, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the claimant in equal installments over the duration of the award or until the attorney's fee has been paid. [~~The entire attorney's fee in a lump sum shall be paid directly to the attorney of record, and the board in allowing or approving an attorney's fee, as provided in this section, shall order the payment of same directly to the attorney, commuting sufficient of the final payments of compensation payable under the award to a lump sum for that purpose.~~]

(3) The attorney shall explain to the claimant the methods by which this section provides for the payment of the attorney's fee, and the claimant shall select the method in which his attorney's fee, is to be paid. His selection and statement that he fully understands the method to be used shall be submitted, on a notarized form signed by the claimant, by his attorney at the time the motion for approval of the attorney's fee is submitted. The board shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of attorney fees and an explanation in nontechnical language of each method.

(4)[~~(3)~~] The general assembly declares that by the enactment of *subsection* [~~subsections~~] (2)(b) [~~and (7)~~] of KRS 342.316, it is the legislative intent to encourage settlement and prompt administrative handling of such claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the *administrative law judge* [~~board~~] shall give due regard to such legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(5)[~~(4)~~] The *administrative law judge* [~~board~~] shall approve any contract between attorney and client if the limits on fees enumerated below are followed:

(a) When the claim is uncontested under the provisions of KRS 342.316 [~~(2)(b), paragraph 5,~~] the attorney fee shall not exceed an amount equal to $750.00.

(b) In all other claims, the fee of the attorney shall not exceed a sum equal to twenty percent (20%) of the amount recovered, or $5000.00, whichever is less.

[~~(c) When an order or award is appealed to the Court of Appeals, the attorney fee shall not exceed 20 percent of the amount recovered, or $6000.00, whichever is less.~~]

(6) (a) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney fee may be awarded by the administrative law judge. In awarding the attorney fee, the administrative law judge shall consider:

1. The quality of services rendered by the attorney;

2. The amount awarded for attorney fees on the original award; and

3. The extent of the services rendered.

(b) Thereafter, the administrative law judge shall fix the attorney fee. No attorney fee shall be allowed or approved against any party not represented by said attorney, nor shall any attorney fee be allowed or approved exceeding an amount equal to twenty percent (20%) of any additional amount recovered but shall not exceed three thousand two hundred and fifty dollars ($3,250). If there is no additional amount recovered in a reopened claim, there shall be no attorney fee.

Section 43. KRS 342.325 is amended to read as follows:

All questions arising under this chapter, if not settled by agreement of the parties interested therein, with the approval of the *administrative law judge* [~~board~~], shall be determined by the *administrative law judge* [~~board~~] except as otherwise provided in this chapter.

Section 44. KRS 342.375 is amended to read as follows:

Every policy or contract of *workers'* [~~workmen's~~] compensation insurance under this chapter, issued or delivered in this state, shall cover the entire liability of the employer for compensation to every one of his

employes subject to this chapter, except as otherwise provided in KRS 342.345. However, if specifically authorized by the *commissioner* [~~director~~], a separate insurance policy may be issued for a specified plant or work location if the liability of such employer under this chapter to all his other employes subject to this chapter is otherwise secured and provided that no employe transferred from one plant or work location to another within the employment of the same employer shall thereby lose any benefit rights accumulated under the average weekly wage concept.

Section 45. KRS 342.402 is amended to read as follows:

The *workers'* [~~workmen's~~] compensation board[~~, the director, or his authorized representative~~], upon showing a certification of noncompliance, may temporarily restrain or temporarily or permanently enjoin the further operation of any employer covered by this chapter. Such action shall be brought in Franklin Circuit Court.

Section 46. KRS 342.425 is amended to read as follows:

Upon the request of the board, the attorney general, or, under his direction, the commonwealth's attorney or county attorney of any county, shall institute and prosecute the necessary actions or proceedings for the enforcement of any of the provisions of this chapter arising within his jurisdiction, and shall defend in like manner all actions or proceedings brought against the board, [~~or~~] the members thereof *or administrative law judge* in their official capacity.

Section 47. KRS 342.435 is amended to read as follows:

Annually on or before the 15th day of December the board shall make a report to the governor for the preceding fiscal year, which shall include a statement of the number of awards made and of claims rejected by it, a general statement of the causes of accident leading to the injuries for which awards were made or rejected claims based, [~~and a detailed statement of disbursements from and unpaid expenses chargeable against the maintenance fund and its condition,~~] together with any other information which the board deems proper to call to the attention of the governor, including any recommendations it may have to make, and it shall be the duty of the board to publish and distribute among employers and employes such general information as to the business transacted by the department as may be useful and necessary. The annual report shall not exceed ten thousand (10,000) copies. All printing of the department shall be done by the contractor or contractors for public printing, subject to such provisions of the general laws governing public printing as may be applicable thereto.

Section 48. KRS 342.450 is amended to read as follows:

(1) *Until November 1, 1987,* every insurance carrier including the parties to any inter-indemnity contract or reciprocal plan or scheme, insuring employers in this state against liability for personal injuries to their employes, or death caused thereby under this chapter, shall pay a tax upon the premium received, whether in cash or notes, in this state or on account of business done in this state, for such insurance in this state at the rate of two percent (2%) of the amount of such premium [~~and any additional assessment made pursuant to subsection (2) of this section~~]. Such insurance carriers shall be credited with all cancelled or returned premiums, including dividends paid or credited to policyholders, and the premiums received for reinsurance assumed from companies authorized and licensed to transact business in this state.

(2) [~~If the secretary of finance and administration and the secretary of labor find that the tax on premiums levied pursuant to KRS 342.475 and subsection (1) of this section, are insufficient to meet the maintenance fund level of appropriations and expenditures for all programs in the labor cabinet, the Kentucky occupational safety and health review commission and the uninsured employers' fund as reflected in the enacted budget of the Commonwealth and the joint budget bill enacted by the general assembly, they shall advise the secretary of revenue in writing of such fact prior to the end of each fiscal year. The secretary of revenue may then levy one (1) additional assessment per fiscal year against all insurance companies writing workers' compensation insurance in Kentucky, all self-insurance groups operating under this chapter, and every employer carrying his own risk. The amount of each assessment shall be in the proportion that each assessment payers' "adjusted cost" bears to the total "adjusted cost" of all assessment payers.~~

~~(3) Every such insurance carrier shall make an annual return of its president and secretary, or other chief officer or agents, to the revenue cabinet, stating the amount of all such premiums and credits during the period~~

~~covered by that return. Every insurance carrier required to make such return shall file it by March 1, and shall at the same time pay the tax of two dollars ($2) on each one hundred dollars ($100) of such premiums ascertained as provided in subsection (1) of this section, less returned premiums, including dividends paid or credited to policyholders, and reinsurance received from other companies licensed to transact business in this state, and shall thereafter pay any additional assessment made pursuant to subsection (2) of this section, at the time and in the manner prescribed by the secretary of revenue.~~]

Every such insurance carrier shall make a return stating the amount of all workers' compensation premiums and credits during the period from January 1, 1987 through October 31, 1987. Every insurance carrier required to make such return shall file it by January 1, 1988, and shall therewith pay a maintenance fund tax of two dollars ($2) on each one hundred dollars ($100) of workers' compensation premiums received and a special fund tax at the rate of three-fourths (3/4) of one percent (1%) of such premiums received during the period from January 1, 1987 through October 31, 1987, as provided in KRS 342.445 and subsection (1) of this section.

Section 49. KRS 342.460 is amended to read as follows:

If any such insurance carrier withdraws from business in this state before the *special fund assessments* [~~tax~~] required in *this chapter* [~~KRS 342.450~~] falls due or fails to pay such tax, the *funding commission* [~~revenue cabinet~~] shall at once proceed to collect it. The *funding commission* [~~revenue cabinet~~] may employ any legal process necessary for that purpose. The suit may be brought by the *funding commission* [~~revenue cabinet~~] in any court of this state having jurisdiction. Reasonable attorney's fees may be taxed as costs therein, and process may issue to any county of the state and may be served as in civil actions, or, in cases of unincorporated associations, partnerships, interindemnity contracts or other plan or scheme, upon the principal agent of the parties thereto.

Section 50. KRS 342.475 is amended to read as follows:

[~~Every employer carrying his own risk under KRS 342.340 shall report to the revenue cabinet his "adjusted cost" of operating under the provisions of this chapter during the period covered by such report. Such report shall be made in form prescribed by the revenue cabinet and at the time provided for premium reports by the insurance carriers. The revenue cabinet shall assess against such "adjusted costs" so reported a maintenance fund tax of two percent (2%), and shall make an additional assessment if required by KRS 342.450. Such amount shall not exceed the maintenance fund level of appropriations and expenditures for all programs in the labor cabinet, the Kentucky occupational safety and health review commission and the uninsured employers' fund as reflected in the enacted budget of the Commonwealth enacted by the general assembly.~~]

Every employer carrying his own risk under KRS 342.340 shall file an adjusted cost report by January 1, 1988 for the period of January 1, 1987 through October 31, 1987, and shall pay a two percent (2%) maintenance fund tax and a three fourths (3/4) percent special fund tax on such "adjusted cost." "Adjusted cost" as used in this section means all liability incurred for compensation, hospital and medical benefits to be paid pursuant to this chapter, except that any employer defined in KRS 342.630(2) may compute "adjusted cost" on the basis of benefits paid rather than liability incurred. "Adjusted cost" for all employers shall include an additional factor of twelve percent (12%) of such total liabilities or benefits paid.

Section 51. KRS 342.620 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Injury" means any work related harmful change in the human organism, arising out of and in the course of employment including damage to or loss of a prosthetic appliance, but does not include any communicable disease unless the risk of contracting such disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this section shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the

employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employe. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" as used in KRS 342.316 shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employes covered by this chapter.

(8) "Department" means the department of workers' claims in the labor cabinet.

(9) "Commissioner" means the commissioner of the department of workers' claims under the direction and supervision of the *workers' compensation board* [~~secretary of labor~~].

(10)[~~"Director" means the director of the workers' compensation board.~~]

[~~(11)~~] "Board" means the workers' compensation board.

(11)[~~(12)~~] "Disability" means a decrease of wage earning capacity due to injury or loss of ability to compete to obtain the kind of work the employe is customarily able to do, in the area where he lives, taking into consideration his age, occupation, education, effect upon employe's general health of continuing in the kind of work he is customarily able to do, and impairment or disfigurement.

(12)[~~(13)~~] "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13)[~~(14)~~] "Medical and related benefits" means payments made for medical, hospital, burial and other services as provided in this chapter other than income benefits.

(14)[~~(15)~~] "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15)[~~(16)~~] "Medical services" means medical, surgical, dental, hospital, nursing and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16)[~~(17)~~] "Person" means any individual, partnership, firm, association, trust, joint venture, corporation, or legal representative thereof.

(17)[~~(18)~~] "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel or similar advantages received from the employer, and gratuities received in the course of employment from others than the employer as evidenced by the employe's federal and state tax returns.

(18)[~~(19)~~] "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with such farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19)[~~(20)~~] "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20)[~~(21)~~] "United States" when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21)[~~(22)~~] "Alien" means a person who is not a citizen, a national or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed at underground, auger and surface mining sites, all activities performed at tipple or processing plants that clean, break, size or treat coal and all activities performed at coal loading facilities for trucks, railroads and barges. Severance or processing of coal shall not include acts performed by a final consumer if such acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, corporations, joint ventures, associations or any other business entity which has employes on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether such acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. Provided however, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employes engaged in the severance or processing of coal bears to the total number of employes. Any employe who is involved in the act of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" means for every group of self-insurers any and all assessments levied on its members by such group or contributed to it by the members thereof.

(25) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the workers' compensation board using generally accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The board shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each such claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of such claims using the adjusted weekly benefit shall then be calculated by the board. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The board shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from board records and from the records of the division of unemployment insurance. The board shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The board shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.12 and shall then be multiplied by the employer's most recent annualized payroll calculated using board records and

division of unemployment insurance data which shall be made available for this purpose on a quarterly basis as reported to obtain the premium for the next calendar year for assessment purposes under this section.

(d) The calculations set forth in this section shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the board which shall form the employer's basis for assessments pursuant to Section 13 of this Act for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of this section shall be based on such lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation then his premium shall be the greater of the value obtained by the calculation called for in this section or the amount of security required by the board pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured such risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection except that the value for each such employer's claims shall be the total of the indemnity benefits paid by the employer, adjusted to current benefit levels, plus the medical benefits paid.

(26) "SIC code" as used in this chapter means the standard industrial classification code contained in the latest edition of the standard industrial classification manual published by the federal office of management and budget.

Section 52. 342.640 is amended to read as follows:

The following shall constitute employes subject to the provisions of this chapter, except as exempted under KRS 342.650:

(1) Every person, including a minor, whether lawfully or unlawfully employed, in the service of an employer under any contract of hire or apprenticeship, express or implied, and all helpers and assistants of employes whether paid by the employer or employe, if employed with the knowledge, actual or constructive, of the employer;

(2) Every executive officer of a corporation;

(3) Every person in the service of the state or of any political subdivision or agency thereof, or of any county, city of any class, school district, drainage district, tax district, public or quasi-public corporation or other political entity, under any contract of hire, express or implied, and every official or officer thereof, whether elected or appointed, while performing his official duties. Every person who is a member of a volunteer ambulance service, fire or police department shall be deemed for the purposes of this chapter, to be in the employment of the political subdivision of the state where the department is organized. Every person who is a regularly enrolled volunteer member or trainee of the civil defense corps of this state as established under KRS Chapter 39, shall be deemed for the purposes of this chapter, to be in the employment of this state. Every person who is a member of the Kentucky national guard, while said person is on active state service as defined in KRS 38.010(4) shall be deemed for the purposes of this chapter to be in the employment of this state;

(4) Every person performing service in the course of the trade, business, profession or occupation of an employer at the time of the injury; and

(5) Subject to the provisions in subsection (4) of this section, every person regularly selling or distributing newspapers on the street or to customers at their homes or places of business. For the purposes of this chapter

such a person shall be deemed an employe of an independent news agency for whom he is selling or distributing newspapers, or, in the absence of such independent agency, of each publisher whose newspapers he sells or distributes.

Section 53. KRS 342.700 is amended to read as follows:

(1) Whenever an injury for which compensation is payable under this chapter has been sustained under circumstances creating in some other person than the employer a legal liability to pay damages, the injured employe may either claim compensation or proceed at law by civil action against such other person to recover damages, or proceed both against the employer for compensation and such other person to recover damages, but he shall not collect from both. If the injured employe elects to proceed at law by civil action against such other person to recover damages, he shall give due and timely notice to the employer of the filing of such action. If compensation is awarded under this chapter, the employer, his insurance carrier, the special fund, and the uninsured employer's fund, or any of them, having paid the compensation or having become liable therefor, may recover in his or its own name or that of the injured employe from the other person in whom legal liability for damages exists, not to exceed the indemnity paid and payable to the injured employe, less the employe's legal fees and expense.

(2) A principal contractor, intermediate or subcontractor shall be liable for compensation to any employe injured while in the employ of any one of his intermediate or subcontractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer. Any principal, intermediate or subcontractor who pays such compensation may recover the amount paid from any subordinate contractor through whom he has been rendered liable under this section. Every claim to compensation under this subsection shall in the first instance be presented to and instituted against the immediate employer, but such proceedings shall not constitute a waiver of the employe's rights to recover compensation under this chapter from the principal or intermediate contractor nor shall such claim be barred by limitations, provided such claim is filed against the principal or intermediate contractor within one year after a final unappealed order has been rendered by *an administrative law judge* [~~the Workmen's Compensation Board~~] determining that immediate employer has insufficient security to pay the full and maximum benefits that could be determined to be due him under this chapter. The collection of full compensation from one employer shall bar recovery by the employe against any other. But he shall not collect from all a total compensation in excess of the amount for which his immediate employer is liable. This subsection shall apply only in cases where the injury occurred on, in or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.

Section 54. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employe to gainful employment. To this end there is hereby created a rehabilitation panel which shall be composed of the *commissioner* [~~director~~] and specialists in medical and vocational rehabilitation to be appointed by the board.

(2) The panel shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public. The board in consultation with the panel, shall approve as qualified such facilities, institutions and physicians as are capable of rendering competent rehabilitation service to seriously injured employes. No facility or institution shall be considered as qualified unless it is specifically equipped to provide rehabilitation services for persons suffering either from some specialized type of disability or general type of disability within the field of occupational injury and is staffed with trained and qualified personnel, and with respect to physical rehabilitation, unless it is supervised by a physician qualified to render such service. No physician shall be considered qualified unless he has had the experience and training specified by the board.

(3) An employe who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time *is* necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the *administrative law judge* [~~board~~] shall inquire whether such services have been voluntarily offered and accepted. The *administrative law judge* [~~board~~] on *his* [~~its~~] own motion, or upon

application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employe to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, and after affording the parties an opportunity to be heard by the panel, the *administrative law judge* [~~board~~], in consultation with the panel, may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service the *administrative law judge* [~~board~~] may deem necessary, be provided at the expense of the defendants [~~as apportioned in the award~~]. Vocational rehabilitation training, treatment or service shall not extend for a period of more than fifty-two (52) weeks except in unusual cases when by special order of the *administrative law judge* [~~board~~], after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employe's customary residence, reasonable cost of his board, lodging or travel shall be paid for by the defendants.

(5) Refusal to accept rehabilitation pursuant to an order of *an administrative law judge* [~~the board~~] shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The board and the rehabilitation panel shall cooperate on a reciprocal basis with the Kentucky office of rehabilitation of the department of education and the employment services of the Kentucky cabinet for human resources. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employe by the office of vocational rehabilitation or department for employment services following the defendant's refusal to provide such services, the board, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the defendants as apportioned in the award.

(7) The board shall, by July 1, 1988, promulgate administrative regulations to effectuate the provisions of this section. The administrative regulations shall ensure early intervention; prompt and cost-efficient delivery of rehabilitation services and vigorous monitoring of qualified rehabilitation providers, facilities and agencies.

Section 55. KRS 342.730 is amended to read as follows:

(1) *Except as provided in Section 57 of this Act* income benefits for disability shall be paid to the employe as follows:

(a) For total disability, sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during such disability.

(b) For permanent, partial disability, sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of disability caused by the injury or occupational disease as determined by "guides to the evaluation of permanent impairment," American medical association, 1977 edition, or by his percentage of disability as determined under KRS 342.620 (11), whichever is greater, for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of KRS Chapter 342 to the contrary there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) When an employe, who has sustained disability compensable under this section, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration

of the compensable period specified, *portions of* the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, *benefits at fifty percent (50%) of the rate specified in the award*; or

(b) If there are both such a widow or widower and such a child or children, [~~one-half~~] to such widow or widower *forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of such benefits if such a child or children are not living with the widow or widower;* and, *in addition thereto, fifteen percent (15%) of the benefits specified in the award* [~~the other half~~] to *each* [~~such~~] child [~~or children~~]. *Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike*; or

(c) If there is no such widow or widower but such a child or children, then to such child or children, *fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of such benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children*; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750 or to both, in such proportions as the board may provide by regulation.

(e) To the widow or widower upon remarriage, up to two (2) years benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if such proportioned benefits remain unpaid, to be paid in a lump sum.

SECTION 56. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust shall be paid as follows:

(a) If the administrative law judge finds that an employe has a radiographic classification of category 1/0, 1/1 or 1/2, based on the latest ILO International Classification of Radiographics, and no respiratory impairment resulting from exposure to coal dust based upon spirometric testing values of eighty percent (80%) or more of the predicted normal values contained in the chapter on the respiratory system in the latest edition available of the guides to the evaluation of permanent impairment published by the American medical association, he shall award a one time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by fifty percent (50%) and shall be payable for a period not to exceed two hundred and eight (208) weeks. The one time only retraining incentive benefit awarded under this subsection may be collected semi-monthly as provided in KRS 342.040, by the employe while he continues to work in the mining industry. The retraining incentive benefit may be collected in a lump sum when the employe leaves his hazardous employment in the mining industry if the parties agree and the agreement is approved by the administrative law judge. To file a claim under this subsection a claimant may elect, in lieu of any other method of procedure, to be examined by a physician named by the board and paid for by the employer. Based upon this examination the board may make appropriate findings and enter an award if indicated. A claimant or employer aggrieved by a decision of the board shall have forty-five (45) days to file an appeal as provided by this Act.

(b) If the administrative law judge finds that an employe has a radiographic classification of category 1/0, 1/1 or 1/2, based on the latest ILO International Classification of Radiographics, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, contained in the chapter on the respiratory system of the latest edition available of the guides to the evaluation of permanent impairment published by the American medical association, there shall be an irrebutable presumption that the employe has an occupational disability rating of seventy-five percent (75%) resulting from exposure to coal dust and the administrative law

judge shall award an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage multiplied by the disability rating of seventy-five (75%) but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740. The award shall be payable for a period not to exceed four hundred and twenty-five (425) weeks. To file a claim under this subsection a claimant may elect, in lieu of any other method of procedure, to be examined by a physician named by the board and paid for by the employer. Based upon this examination the board may make appropriate findings and enter an award if indicated. A claimant or employer aggrieved by a decision of the board shall have forty-five (45) days to file an appeal as provided by this Act.

(c) If the administrative law judge finds that an employe has a radiographic classification of category 1/0, 1/1 or 1/2, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, contained in the chapter on the respiratory system of the latest edition available of the guides to the evaluation of permanent impairment published by the American medical association, there shall be an irrebutable presumption that the employe is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits which shall be equal to sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined by KRS 342.740. Income benefits awarded under this subsection shall be payable to the employe during such disability.

(d) If the administrative law judge finds that an employe has occupational pneumoconiosis with a radiographic classification of category 2/1, 2/2, 2/3, 3/2, 3/3 or progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, there shall be an irrebutable presumption that the employe is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits equal to sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this subsection shall be payable to the employe during such disability.

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employe, the administrative law judge shall make its decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to such occupational pneumoconiosis. The evidence submitted by the employe shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

Section 57. KRS 342.770 is amended to read as follows:

(1) Upon the filing of a claim the *commissioner* [~~director~~] shall ascertain whether the employer, or any other person against whom a claim is filed and who is not exempt by KRS 342.630 or KRS 342.650, has secured payment of compensation by either securing insurance coverage or qualifying as a self insurer pursuant to KRS 342.340. Upon determination that any employer under this chapter has failed to comply with the provisions of KRS 342.340, the *commissioner* [~~director~~] shall record, as provided by subsection (2), a certificate prepared and furnished him by *the general counsel* [~~a representative of the uninsured employers' fund~~] showing the date on which such claim was filed, the date of the injury alleged, the name and last known address of the employer against whom it was filed, and the fact that the employer has not secured the payment of compensation as required. Upon recordation, such certificate constitutes a valid lien against the assets of the employer in favor of the uninsured employers' fund for the whole amount which may be due as compensation. Such lien shall be superior to the lien of any mortgage or other encumbrance thereafter created and shall continue for 10 years from the time of such recording unless sooner released or otherwise discharged. A copy of such certificate shall be served upon the employer by the *commissioner* [~~director~~].

(2) The certificate constituting a lien in favor of the uninsured employers' fund shall be filed in the following offices:

(a) The office of the county clerk of the county in which the defendant employer resides.

(b) The office of the county clerk of the county in which the defendant employer has its principal place of business.

(c) The office of the county clerk in the counties where such employers' property is located.

Section 58. KRS 342.780 is amended to read as follows:

A claimant may, in the original application for benefits, or any party may, by motion accompanied by proper allegations while the case is still pending, and the *administrative law judge* [~~board~~] shall, upon *his* [~~its~~] own motion at any time before the rendition of the final award, cause the uninsured employers' fund to be made a party to the proceedings if it should appear that the named defendant has failed to secure the payment of compensation as required by KRS 342.340.

Section 59. KRS 342.790 is amended to read as follows:

When an award is made against an employer who (1) has not secured payment of compensation by either securing insurance coverage or qualifying as a self insurer, and (2) has not made a deposit of security, indemnity or bond acceptable to the board to secure the payment of compensation liability and (3) has failed to make payment of compensation according to the terms of such award, the award shall constitute a liquidated claim for damages against such employer in an amount commuted to a lump sum which will equal the present value of the total sum of the probable future payments discounted at four percent (4%) true discount compounded annually on each payment, which amount is to be ascertained and fixed by the board, and the *commissioner* [~~director~~] shall certify the same to the *general counsel of the labor cabinet* [~~attorney general~~] who shall forthwith institute a civil action against such employer in the name of the *uninsured employers' fund* [~~state~~] for the collection of such award. In such action it shall be sufficient for plaintiff to set forth a copy of the award of the *administrative law judge* [~~board~~] relative to such claim as certified by the *commissioner* [~~director~~] and to state that there is due to plaintiff on such account of such opinion, order or award of the *administrative law judge* [~~board~~] a specified sum which plaintiff claims with interest. A certified copy of such award in such claim shall be attached to the complaint and constitutes prima facie evidence of the truth of the facts therein contained.

Section 60. KRS 351.175 is amended to read as follows:

(1) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, or lessee of each mine shall procure from the department a license to operate such a mine, and such license shall not be transferable. Any owner, operator, or lessee who assumes control of a mine, opens a new mine or reopens an abandoned mine during any calendar year shall procure such license before mining operations are begun.

(2) The license shall be in such printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(3) Requests for such license shall be made to the department and such requests shall be accompanied by a U.S. postal money order or cashier's check drawn in favor of the state treasurer in a reasonable amount established by regulations promulgated by the commissioner of a minimum of one hundred dollars ($100) and a maximum of one thousand dollars ($1,000). When the annual report of the operator and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the commissioner of *the department of workers' claims* [~~labor~~] that the applicant for license has presented positive proof of compliance with the provisions of KRS Chapter 342, are properly submitted to the department, the license shall be issued. The commissioner or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of *the department of workers' claims* [~~labor~~], or upon receipt of notice from the commissioner of revenue that the licensee is a "delinquent taxpayer", as defined in KRS Chapter 131, the department shall forthwith revoke any license hereunder issued. Revocation of said license shall be an administrative function of the department. Appeal of said administrative function shall lie in the Fayette Circuit Court.

(4) The mine inspector shall have the authority to stop production at the mine of any operator who fails to procure a license or fails to furnish a certification of compensation coverage as required under this section.

(5) The department shall be authorized to seek injunctive relief for any violation of this section.

(6) The application for a license shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the bureau of vehicle regulation attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges.

(7) A license which has been revoked under the "delinquent taxpayer" provision shall not be re-issued until a written tax clearance has been received from the commissioner of revenue.

(8) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

SECTION 61. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky workers' compensation advisory council which shall consist of sixteen (16) members appointed by the governor. Each member shall serve for a term of four (4) years and until his successor has been appointed and has qualified.

(2) Vacancies shall be filled by appointment of the governor for the unexpired term of the member whose office is vacant and shall be made within sixty (60) days of the occurrence of the vacancy.

(3) Annually, the governor shall designate one of the members to serve as chairman of the council. A majority of the members of the council shall constitute a quorum for the transaction of business.

(4) The council shall meet at least quarterly and on other occasions as may be necessary, on the call of the chairman or a majority of the members.

(5) The council shall be attached to the labor cabinet for administrative purposes, and the secretary of labor shall supply necessary staff and supplies to the council.

(6) The principal office of the council shall be located in Frankfort, Kentucky, but meetings of the council may be held at any location in the Commonwealth of Kentucky.

(7) In making appointments to the council, the governor shall appoint eight (8) members representing labor and eight (8) members representing management.

(8) The council shall not infringe upon or assume the duties of the labor cabinet, commerce cabinet or the department of insurance. The council shall serve in an advisory capacity and shall make recommendations to the governor and the legislature on all matters relating to workers' compensation including, but not limited to: efficient administration; coverage of employers and employes; adequacy and delivery of the benefit structure; insurance and self-insurance; medical cost containment and medical services; rehabilitation; liability and financing of the special fund; attorney fees; and lump-sum compensation and settlement procedures. In addition, the council may recommend legislation and administrative regulations as it deems necessary.

(9) Any insurer authorized to write a policy of workers' compensation insurance shall transmit the following information on its workers' compensation experience only to the department of insurance and the council each year and such information shall be certified and reported on a net basis with respect to reinsurance for nationwide experience and direct basis with respect to Kentucky experience:

(a) Direct premiums written;

(b) Direct premiums earned;

(c) Dividends paid or credited to policyholders;

(d) Losses paid;

(e) Allocated loss adjustment expenses;

(f) The ratio of allocated loss adjustment expenses to losses paid;

(g) Unallocated loss adjustment expenses;

(h) The ratio of unallocated loss adjustment expenses to losses paid;

(i) The total of losses paid and unallocated and allocated loss adjustment expenses;

(j) The ratio of losses paid and unallocated and allocated loss adjustment expenses to premiums earned;

(k) The number of claims outstanding as of December 31 of each year;

(l) The total amount of losses unpaid as of December 31 of each year;

(m) The total amount of allocated and unallocated loss adjustment expenses unpaid as of December 31 of each year;

(n) The total of losses paid and allocated loss adjustment expenses and unallocated loss adjustment expenses, plus the total of losses unpaid as of December 31 of each year and loss adjustment expenses unpaid as of December 31 of each year; and

(o) Net investment gain or loss.

(10) (a) The first report of the information required in subsection (9) of this section shall include the information for the year ending December 31, 1987. Such report shall be filed no later than August 1, 1988. Beginning with the report for the period ending December 31, 1989, all future reports shall have all information required by subsection (9) of this section broken down by year for the current and two (2) preceding years.

(b) Within thirty (30) days after March 1, 1989, the department of insurance shall commence a review of the rates of all workers' compensation insurers in effect at the time. If, after the review, the department finds on a preliminary basis that the rate may be excessive, inadequate, or unfairly discriminatory, the department shall so notify the insurer. Upon being so notified, the filer shall within sixty (60) days file with the department all information which the filer believes proves the reasonableness, adequacy, and fairness of the rate. In such instances, the filer shall carry the burden of proof. In the event the department finds that a rate is excessive, inadequate, or unfairly discriminatory, the department shall order that a new rate schedule be thereafter filed by the filer and shall further specify the manner in which noncompliance shall be corrected.

Section 62. KRS 342.715 is amended to read as follows:

Notwithstanding the provisions of KRS 342.730, during the period the employe is eligible for permanent total disability benefits and is actively participating in a vocational or physical rehabilitation program, pursuant to a *an* [~~board~~] order *of the administrative law judge*, the employe's benefits shall be calculated by taking eighty percent (80%) of his average weekly wage, but not more than one hundred percent (100%) of the state's average weekly wage, times the percentage of disability as determined in this chapter.

SECTION 63. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky workers' compensation funding commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to Section 13 of this Act.

(2) The commission shall:

(a) Hold, administer, invest and reinvest the funds collected pursuant to Section 13 of this Act and its other funds in accordance separate and apart from all "state funds" or "public funds" as defined in KRS Chapter 446.

(b) Act as a fiduciary, as defined in KRS chapter 386, in exercising its power over the funds collected pursuant to Section 13 of this Act, and may invest association funds through one or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the department of financial institutions, in investments described in KRS Chapter 386. Provided, however, the commission shall not invest any of the funds collected pursuant to Section 13 of this Act in any corporation, company, partnership or other business entity, or any bank, investment service firm or other financial entity which directly or indirectly maintains operations or has financial dealings with the Republic of South Africa.

(c) Report to the general assembly at each regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by such mechanism, including detailed information on the investment of funds and yields thereon; and

(d) Recommend to the general assembly not later than October 31 of the year prior to each regular legislative session changes deemed necessary in the level of the assessments imposed in Section 13 of this Act; and

(e) In conjunction with the labor cabinet, submit to the general assembly not later than October 31 of the year prior to each regular legislative session a proposed budget for the biennium beginning July 1 following the regular session of the general assembly; and

(f) In conjunction with the labor cabinet, provide to the interim joint committee on appropriations and revenue an annual budget and detailed quarterly financial reports; and

(g) Conduct periodic audits independently or in cooperation with the labor cabinet or the revenue cabinet of all entities subject to the assessments imposed in Section 13 of this Act.

(3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established including, but not limited to the power:

(a) To sue and be sued, complain or defend, in its name;

(b) To elect, appoint or hire officers, agents and employes, and define their duties and fix their compensation within the limits of its budget approved by the general assembly;

(c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45;

(d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;

(e) To take any and all other actions consistent with the purposes of the commission and the provisions of this Act.

(4) The commission shall be attached to the revenue cabinet for administrative purposes only.

SECTION 64. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall be governed by a board of directors consisting of seven (7) members. The seven (7) members shall include the secretary of the labor cabinet, the secretary of the commerce cabinet, the secretary of the revenue cabinet, and four (4) members who shall be appointed by the governor.

(2) The four (4) appointed members shall include:

(a) One (1) member, selected from a list of three (3) submitted by the secretary of labor, who shall represent labor;

(b) One (1) member, selected from a list of three (3) submitted by the secretary of commerce, who shall represent employers provided, however, that these three (3) members shall represent employers who purchase workers' compensation coverage for their employes from insurance companies writing workers' compensation insurance in the Commonwealth; and

(c) One (1) member, selected from a list of three (3) submitted by the insurance advisory organization having jurisdiction over Kentucky, who shall represent insurance companies writing workers' compensation insurance in the Commonwealth provided, however, that such member shall be a resident of Kentucky; and

(d) One (1) member, selected from a list of three (3) submitted by the associations representing self-insured employers in the Commonwealth.

(3) The members of the board of directors shall serve a term of four (4) years except that the initial terms of the members shall be staggered as follows:

(a) The three (3) initial members appointed by the governor to represent labor shall serve terms of one (1) year, two (2) years and three (3) years, respectively. Thereafter, each member shall serve a term of four (4) years; and,

(b) The three (3) initial members appointed by the governor to represent employers shall serve terms of one (1) year, two (2) years, and three (3) years, respectively. Thereafter, each member shall serve a term of four (4) years; and,

(c) The four (4) initial members appointed by the governor to represent insurance companies shall serve terms of one (1) year, two (2) years, three (3) years, and four (4) years respectively. Thereafter, each member shall serve a term of four (4) years; and

(d) The two (2) initial members appointed by the governor to represent self-insured employers shall serve terms of one (1) year and three (3) years, respectively, and the two (2) initial members appointed by the governor to represent self-insurance groups shall serve terms of one (1) year and three (3) years, respectively. Thereafter, each member shall serve a term of four (4) years.

(3) The board of directors shall annually elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The board of directors may also elect or appoint, and prescribe the duties of, other officers as the board of directors deems necessary or advisable.

(4) The board of directors shall appoint an executive director to administer, manage, and direct the affairs and business of the commission, and other staff persons to carry out the affairs and business of the commission, subject in each instance to the policies, control, and directions of the board of directors. The board of directors shall fix the compensation of all such persons and shall pay such compensation out of the funds of the commission.

(5) Notwithstanding any other law, the governor, pursuant to an executive order, may cause the employes of the commission to be eligible to participate in the Kentucky retirement system and the Kentucky public employes deferred compensation system.

(6) A majority of the board of directors of the commission shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. The majority shall be determined by excluding any existing vacancies from the total number of directors.

SECTION 65. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The Kentucky workers' compensation funding commission shall not be subject to the governor's power of reorganization under KRS Chapter 12. The governor may, however, recommend changes in the organization of the commission to the general assembly at any regular or special session of the general assembly.

SECTION 66. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

Funds which are under the jurisdiction of the Commission shall not:

(1) Be loaned to the Commonwealth or any instrumentality or agency thereof;

(2) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for purposes specifically authorized by this Act;

(3) Be expended for any other purpose than one authorized by this Act.

SECTION 67. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The board of directors shall require the commission to engage a certified public accountant or a firm of certified public accountants to conduct an annual examination of the commission's financial statements, conditions, transactions, and affairs in accordance with generally accepted auditing standards for the purpose of submitting an independent opinion, and preparing a report of findings and recommendations concerning the commission's internal accounting controls and procedures. The opinions and reports of the accountants shall be forwarded annually to the governor and auditor of public accounts. Notwithstanding any other provision of this chapter, the auditor of public accounts shall have access to and may examine all books, accounts, reports, vouchers, correspondence files, records, money, and property of the commission and may otherwise exercise all powers of his office under KRS Chapter 43 with respect to the association.

SECTION 68. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The special fund and the funding commission shall at all times furnish each other access to any and all books, records, documents, and information necessary or desirable in order to allow the other to perform its duties under this chapter.

SECTION 69. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The benefit reserve fund is hereby established within the commission, and shall be administered by the commission. All funds in excess of current liabilities of the special fund and budgeted expenditures shall be deposited in the benefit reserve fund and invested in compliance with the investment policies formulated by the commission.

SECTION 70. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) All funds collected by insurance companies from their insureds, prior to the effective date of this Act, for assessments of the Kentucky reinsurance association or special fund taxes and assessments of the Kentucky revenue cabinet not previously paid, shall be paid in full by January 1, 1988 to the Kentucky workers' compensation funding commission.

(2) To ensure compliance with the provisions of subsection (1) of this section, the revenue cabinet shall conduct audits of insurance companies. The costs of such audits shall be borne by the Kentucky workers' compensation funding commission. The revenue cabinet may enter an agreement with the insurance department for assistance in conducting such audits or it may hire additional auditors on a temporary basis. The audits shall commence within sixty (60) days from the effective date of this Act and shall be completed within six (6) months. The aggregate findings of such audits shall be presented to the secretary of revenue, the commissioner of insurance, the Kentucky workers' compensation funding commission and the governor.

(3) If the audits reveal noncompliance with subsection (1) of this section, the revenue cabinet shall notify the affected party of such fact. The affected party shall remit the amount in question not later than thirty (30) days following notification and the revenue cabinet shall institute a civil action in Franklin circuit court if remittance is not made within such thirty (30) day period.

(4) The failure of an insurance company to comply with the provisions of this section shall constitute grounds for the revocation by the commissioner of insurance of such entity's authority to write workers' compensation coverage in the Commonwealth.

(5) The revenue cabinet shall report to the commissioner of insurance the failure of any insurance company to comply with the provisions of this section and the commissioner shall institute revocation procedures of such entity's authority to write workers' compensation coverage in the Commonwealth.

(6) "Funds collected" as used in subsection (1) of this section shall mean all funds collected without reduction for credits, refund or returns of any type made to insureds or group members after September 1, 1987.

Section 71. KRS 342.990 is amended to read as follows:

(1) The commissioner, on behalf of the workers' compensation board, shall initiate enforcement of civil and criminal penalties imposed in this section.

(2) When the commissioner receives information that he deems sufficient to determine that a violation of this chapter has occurred, he shall seek civil penalties pursuant to subsections (3) through (8) of this section, or criminal penalties pursuant to subsections (9) and (10) of this section, or both.

(3) The commissioner, on behalf of the board, shall initiate enforcement of a civil penalty by simultaneously citing the appropriate party for the offense and stating the civil penalty to be paid.

(4) If within fifteen (15) working days from the receipt of the citation a cited party fails to notify the commissioner that he intends to contest the citation, then the citation shall be deemed final.

(5) If a cited party notifies the commissioner that he intends to challenge a citation issued under this section, the commissioner shall cause the matter to be heard as soon as practicable by an administrative law judge. The administrative law judge shall issue a ruling thereon within fifteen (15) days of the hearing.

(6) A cited party may appeal the ruling of the administrative law judge within fifteen (15) days following the issuance of the ruling. The appeal shall be made in writing to the workers' compensation board, and the board, through the commissioner, shall as soon as practicable, schedule the matter for hearing. The board shall issue a ruling on the matter within thirty (30) days of the hearing.

(7) An appeal of the ruling of the board on civil penalties imposed in this chapter shall be to the Court of Appeals.

(8) The following civil penalties shall be applicable for violations of particular provisions of this chapter:

(a)[~~(1)~~] Any employer subject to this chapter, who *fails* [~~refuses or willfully neglects~~] to make the report required by KRS 342.038, *within fifteen (15) days from the date it was due,* shall be fined not *less than one hundred dollars ($100) nor* more than *one thousand dollars ($1,000)* [~~twenty-five dollars ($25)~~] for each offense.

(b)[~~(2)~~] Any person who violates KRS 342.040, 342.335, *342.400, 342.420, or* 342.630 [~~342.197~~] shall be fined not less than *one hundred dollars ($100)* [~~fifty dollars ($50)~~] nor more than *one thousand dollars ($1,000) for each offense* [~~five hundred dollars ($500) or imprisoned for not less than ten (10) days nor more than ninety (90) days.~~

~~(3) Any person who violates subsection (2) of KRS 342.400 shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) or imprisoned for not less than ten (10) days nor more than ninety (90) days.~~

~~(4) Any employer who violates KRS 342.420 shall be fined not more than one hundred dollars ($100) for each offense~~].

(c)[~~(5)~~] Any person who violates any of the provisions of KRS *342.460, 342.465 or 342.470* [~~342.445 to 342.475~~] shall be fined not less than *two hundred dollars ($200)* [~~one hundred dollars ($100)~~] nor more than *two thousand dollars ($2,000) for each offense* [~~one thousand dollars ($1,000) or imprisoned for not less than ten (10) days nor more than ninety (90) days, or both~~].

(9) The commissioner shall initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate local prosecutor. If the prosecutor fails to act on the violation within twenty (20) days following the filing of the complaint, the commissioner, on behalf of the board, shall certify such inaction by the local prosecutor to the attorney general who shall initiate proceedings to prosecute the violation. The provisions of KRS 15.715 shall not apply to this section.

(10) The following criminal penalties shall be applicable for violations of particular provisions of this chapter:

(a) Any person who violates KRS 342.040, 342.335, 342.400, 342.420, or 342.630, shall, for each offense, be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.

(b) Any person who violates any of the provisions of KRS 342.460, 342.465 or 342.470 shall, for each offense, be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.

(11) Fines paid pursuant to subsections (8) and (10) of this section shall be paid into the special fund.

Section 72. On the effective date of this Act, the following sections of the Kentucky Revised Statutes are hereby repealed: KRS 342.123 Creation of Kentucky reinsurance association - board of directors - payment of premiums and assessments by subscribers - KRS 342.255 - Hearing, how held - What deemed order of board - KRS 342.490 - Board not to incur expense exceeding appropriation.

On January 2, 1988, the following sections of the Kentucky Revised Statutes are hereby repealed:

KRS 342.440 - Fund for administration - KRS 342.445 Definitions - Insurance carrier to pay tax premiums - KRS 342.450 - Insurance premium tax - Additional assessments - Annual return of insurance carrier - Amount of tax on premiums - KRS 342.455 - Procedure if insurance carrier fails to make return - KRS 342.475 Employer carrying own risk to pay maintenance fund tax - KRS 342.480 - Maintenance fund - Use - Not to lapse - Publication of proceedings.

Section 73. KRS 342.760 is amended to read as follows:

(1) There is hereby authorized in the *labor cabinet* [~~state treasury~~] an uninsured employers' fund for the purpose of making payments in accordance with the provisions of subsection (4) of this section. The *secretary of the labor cabinet* [~~state treasurer~~] shall be the custodian of the fund and all moneys and securities in the fund shall be held in trust by the *secretary of the labor cabinet* [~~state treasurer~~] and shall not be considered a part of the general funds of the state.

(2) The *secretary of the labor cabinet* [~~state treasurer~~] is authorized to disburse moneys from the fund only upon written order of the *administrative law judge or the* board.

(3) All amounts collected as fines and penalties under this chapter shall be paid into the uninsured employers' fund. [~~There shall initially be transferred to the fund from the maintenance fund beginning January 1, 1973, the sum of one hundred thousand dollars ($100,000).~~]

(4) [~~Upon the action taken in subsection (3) of this section~~] The uninsured employers' fund [~~will become operative, compensation thereafter~~] shall be *responsible for the payment of compensation* [~~paid from it~~] when there has been default in the payment of compensation due to the failure of an employer to secure payment of compensation as provided by this chapter. Such employer shall be liable for payment into the fund of the amounts authorized to be paid therefrom under the authority of this subsection and for the purposes of enforcing this liability the *labor cabinet* [~~board~~], for the benefit of the fund, shall be subrogated to all the rights of the person receiving such compensation *from the fund.*

(5) In furtherance of this purpose, the attorney general shall appoint a member or members of his staff or special counsel to represent the fund in all proceedings brought to enforce claims against or on behalf of the fund. Necessary expenses for this purpose including salaries of said staff or special counsel shall be borne by the fund. The *labor cabinet* [~~attorney general's office~~] shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the assets of the fund.

(6) *On the effective date of this section, the liabilities of the uninsured employers' fund and its assets remaining in the state treasury shall be transferred to the uninsured employers' fund created within the labor cabinet pursuant to this section.* [~~If at any time the assets of the uninsured employers' fund fall below fifty thousand dollars ($50,000), the board, with approval of the secretary of the executive department for finance~~

~~and administration and commissioner of labor, may transfer sufficient moneys from the maintenance fund to the uninsured employers' fund in order to honor claims filed against said uninsured employers' fund and to provide for the administration of the fund.~~]

SECTION 74. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

As the constitution of the Commonwealth of Kentucky requires that funds collected for a specific purpose by a public entity be expended only for such public purpose, the general assembly does hereby transfer, within sixty (60) days following the effective date of this Act, the liabilities and all funds, records, and property, in the possession of the Kentucky reinsurance association to the Kentucky workers' compensation funding commission.

HB 2, AN ACT making an appropriation to the Legislative Research Commission for expenses incurred in connection with the Extraordinary Session of 1987 of the General Assembly, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. That there be appropriated from the General Expenditure Fund to the Legislative Sessions Fund, for the payment of salaries and other expenses of the Extraordinary Session of 1987 of the General Assembly, the sum of $25,814 per calendar day during the Extraordinary Session of 1987.

Section 2. That there be appropriated from the General Expenditure Fund to the Legislative Research Commission the sum of $6,000 per calendar day during the Extraordinary Session of 1987.

Section 3. That there be transferred from the Monthly Expenses of Legislators' Account to the Legislative Sessions Fund the amount of $4,416 per calendar day of the Extraordinary Session of 1987 to be used for necessary expenses during such extraordinary session.

Section 4. That there be appropriated from the General Expenditure Fund to the Legislative Sessions Fund the sum of $15,000 to pay for the cost of printing and binding the Acts and Journals of the Extraordinary Session of 1987.

Section 5. That there be appropriated from the General Expenditure Fund to the Legislative Sessions Fund the sum of $26,000 to pay the cost of travel and stationery allowances for the Extraordinary Session of 1987.

Section 6. Whereas, the General Assembly is now in session, and it is necessary that funds be made available immediately, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor, and shall be retroactive to include all calendar days of the Extraordinary Session of 1987, beginning October, 14, 1987.

Senator Saunders moved that the rules be suspended for the purpose of introducing and considering a resolution.

Agreed.

Introduction of Bills and Resolutions

SR 7, by Senators Saunders and Rose: A RESOLUTION adjourning the Senate in honor of former Senator Danny Yocum.

Senator Saunders moved the adoption of SR 7. Agreed.

SR 7 is as follows:

SR 7, A RESOLUTION adjourning the Senate in honor of former Senator Danny Yocom.

WHEREAS, for fifteen years Danny Yocom faithfully represented his constituents of the 37th Senatorial District of Jefferson County; and

WHEREAS, Danny Yocom provided leadership to the Senate as Democratic Caucus Chairman from 1976 to 1979 and as Chairman of the Business Organizations and Professions Committee from 1980 to 1986; and

WHEREAS, Danny Yocom suffered an illness which necessitated his resignation from the Senate of the Kentucky General Assembly; and

WHEREAS, Danny Yocom's presence is missed by his colleagues who served with him over the years and are now meeting in special session to conduct the business of the people of this Commonwealth;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the Senate does adjourn this day, Tuesday, October 20, 1987, it does so in honor of former Senator Danny Yocom, and in appreciation for his hard work and dedication on behalf of the citizens of the Commonwealth of Kentucky.

Adjournment

Senator Wright moved that the Senate adjourn until 10:00 a.m.. Wednesday, October 21, 1987. Agreed.

WEDNESDAY, OCTOBER 21, 1987

SIXTH LEGISLATIVE DAY

The Senate was called to order by Lieutenant Governor Beshear.

Prayer by Reverend Bill Smith, First Church of the Nazarene, Frankfort, Kentucky.

The roll was called. All Senators present.

Senator Wright moved that the reading of the Journal of October 20, 1987, be dispensed with and the same approved. Agreed.

Introduction of Bills and Resolutions

SR 6, by Senator Kafoglis: A RESOLUTION in memory of Robert R. Brown.

SR 8, by Senators Weaver, Sheehan and Schmidt: A RESOLUTION recognizing the organizations participating in the Northern Kentucky Legislative Weekend.

SR 9, by Senators Weaver, Sheehan and Schmidt: A RESOLUTION honoring Thomas Geimeier and Medrith Jo Hager of Ludlow, Kentucky, for their heroism.

SR 10, by Senators Meyer and Brinkley: A RESOLUTION urging and praying for the speedy recovery of Garland "Bugs" Wilson, Jr. and urging his swift return to the Capitol.

Calendar

HB 1 and **HB 2** taken from the Calendar and ordered read at length for the second time. Senator Wright moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions and Communications

Senator Kafoglis moved the adoption of **SR 6**. Agreed.

SR 6 is as follows:

SR 6, A RESOLUTION in memory of Robert R. Brown.

WHEREAS, Robert R. Brown served his country in World War II as a member of the United States Air Force from October 1942 to January 1946; and

WHEREAS, Robert R. Brown served as a magistrate for Logan County from January 1962 to December 1969; and

WHEREAS, Robert R. Brown served Logan County as Judge and Judge/Executive from January 1970 to December 1982; and

WHEREAS, Judge Brown's service was marked by dedication and integrity and his numerous contributions to the growth and well-being of his community, including but not limited to industrial growth, medical improvements, road improvements, administrative reorganization, county building renovation, preservation and construction; and

WHEREAS, Judge Brown maintained the office of County Judge/Executive with the dignity, respect and honor proper to that office; and

WHEREAS, his contributions to the people of Logan County are beyond measure and will have lasting impact;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the Senate adjourns this day, Wednesday, October 21, 1987, it does so in memory of Robert R. Brown.

Section 2. That a copy of this resolution be sent to the family of Robert R. Brown.

Senator Weaver moved the adoption of SR 8. Agreed.

SR 8 is as follows:

SR 8, A RESOLUTION recognizing the organizations participating in the Northern Kentucky Legislative Weekend.

WHEREAS, the Northern Kentucky Legislative Caucus recently sponsored the third Northern Kentucky Legislative Weekend; and

WHEREAS, held every two years, the Northern Kentucky Legislative Weekend is an opportunity for all of the members of the General Assembly to experience the hospitality and congeniality of the Northern Kentucky area; and

WHEREAS, by showcasing the citizens and communities throughout Northern Kentucky during this weekend, the members of this august body are sensitized to the needs and concerns of this vital area of the Commonwealth; and

WHEREAS, it would be impossible for the Northern Kentucky Legislative Caucus to sponsor this popular event without the assistance and cooperation of numerous individuals, businesses and organizations throughout the area;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this honorable body do hereby recognize and commend the following patrons, sponsors and participating organizations for their commitment, dedication and financial sponsorship of the Northern Kentucky Legislative Weekend:

Patrons

Benson's Inc.

Cincinnati Bell

Drawbridge Inn

Fifth Third Bank of Kentucky

Huntington Banks of Kentucky

Kenton County Airport Board

Kentucky National Bank

The Kentucky Post

Kentucky Soft Drink Association

N.S. Group, Inc.

Northern Kentucky Chamber of Commerce

Northern Kentucky Convention and Visitors Bureau

Transit Authority of Northern Kentucky

Turfway Park

Union Light, Heat and Power

Sponsors

Booth Memorial Hospital

Carlisle Construction Company

Central Trust of Northern Kentucky

Salmon P. Chase Alumni Club

Comprehensive Care Centers of Northern Kentucky

Corporex Companies, Inc.

Deters, Benzinger & LaVelle, PSC

Dinsmore & Shohl

The Drees Company

Ft. Thomas - Bellevue Bank

Frost & Jacobs

Gradison Financial Services - Kentucky Office

Paul Hemmer Construction Company

Holbrook & Poston

Home Builders Association of Northern Kentucky Inc.

Hosea Worldwide, Inc.

Kentucky Enterprise Federal

Lazarus

Newport National Bank

Northern Kentucky Area Development District

Peck, Shaffer & Williams

Peoples Liberty Bank

Pilot Contracting Corporation

Robinson, Arnzen, Parry & Wentz

St. Elizabeth Medical Center

St. Luke Hospital

Sunrise Federal Savings & Loan

Participating Organizations

Aristech Chemical

James B. Beam Distilling Co.

Blue Grass Foods

Campbell County Board of Realtors

The Community Bank

Edmonson, Condit & Calvert

Frisch's Restaurants

Gordon Construction Company, Inc.

Hebron Deposit Bank

Kenton-Boone Board of Realtors, Inc.

Northern Kentucky Bank & Trust

Northern Kentucky Municipal Government League

Northern Kentucky University Foundation

Recorder Newspapers

Sears, Roebuck & Co.

Wendling Printing Co.

Arthur Young

Section 2. That the Senate expresses its deep sense of appreciation for the commitment shown by the aforementioned groups in promoting the Northern Kentucky Communities.

Section 3. That the members extend a heartfelt thank you to the citizens and the entire business community of Northern Kentucky for enabling us to experience the companionship and hospitality of your homes.

Section 4. That the Clerk of the Senate is hereby directed to transmit a copy of this resolution to Mr. Jack Levermann and Mr. Mark Guilfoyle of the Northern Kentucky Chamber of Commerce, 1717 Dixie Highway, Suite 200, Covington, Kentucky 41011, to be disbursed to the patrons, sponsors and participating organizations honored in this resolution.

Senator Weaver moved the adoption of SR 9. Agreed.

SR 9 is as follows:

SR 9, A RESOLUTION honoring Thomas Geimeier and Medrith Jo Hager of Ludlow, Kentucky for their heroism.

WHEREAS, in November of 1986 Benjamin Overbay, five years old, was tragically struck by an automobile which came to rest upon this small child; and

WHEREAS, Benjamin Overbay was heroically rescued from imminent death by the swift and selfless actions of Thomas Geimeier and Medrith Jo Hager; and

WHEREAS, Thomas Geimeier, a teacher at Ludlow High School, single-handedly lifted the automobile off of Benjamin while Medrith Jo Hager, a secretary at Ludlow Elementary School, pulled Benjamin free of the incredible mass of steel, rubber, and glass which rested upon him; and

WHEREAS, Benjamin Overbay is alive today due to the quick response and gentle care administered by Thomas Geimeier and Medrith Jo Hager;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do hereby honor and praise the heroism and heroic behavior of Thomas Geimeier and Medrith Jo Hager in their rescue of Benjamin Overbay.

Section 2. That the Senate of the General Assembly of the Commonwealth of Kentucky does hereby proclaim Thomas Geimeier and Medrith Jo Hager of Ludlow to be outstanding citizens and exemplary representatives of the Commonwealth.

Section 3. That the Clerk of the Senate is hereby directed to transmit a copy of this resolution to Thomas Geimeier, 5936 Vice Lane, Burlington, Kentucky 41005, and to Medrith Jo Hager, 1605 Park Road, Ft. Wright, Kentucky 41011.

Senator Meyer moved the adoption of SR 10. Agreed.

SR 10 is as follows:

SR 10, A RESOLUTION urging and praying for the speedy recovery of Garland "Bugs" Wilson, Jr. and urging his swift return to the Capitol.

WHEREAS, Garland Wilson, Jr., affectionately known as "Bugs," has faithfully served all comers at the canteen in the basement of the Capitol for many years; and

WHEREAS, Bugs' faithful service and cheerful disposition have become a part of the lore of the Capitol; and

WHEREAS, on October 19, 1987, while at his post in the Capitol canteen, Bugs was stricken with chest pains and as a result thereof is currently in the Intensive Care Unit at King's Daughters Memorial Hospital in Frankfort; and

WHEREAS, the members of the General Assembly, the staff of the Legislative Research Commission, and others in the Capitol miss Bugs and are worried about his condition; and

WHEREAS, we all pray for Bugs' speedy and complete recovery; and

WHEREAS, Bugs is needed back at the Capitol building;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Senate of the General Assembly of the Commonwealth of Kentucky expresses its concern over Bugs' medical condition.

Section 2. That the Senate of the General Assembly of the Commonwealth of Kentucky prays for Bugs Wilson's full and speedy recovery.

Section 3. That the Senate of the General Assembly of the Commonwealth of Kentucky urges Bugs to return to his post as soon as he is physically able.

Section 4. That the Clerk of the Senate cause a copy of this resolution to be delivered to Garland "Bugs" Wilson, Jr. at King's Daughters Memorial Hospital in Frankfort.

Senator Meyer moved that all Senators be listed as co-sponsors of **SR 10**. Agreed.

Recess

Senator Wright moved that the Senate be in recess for five minutes for the purpose of a meeting of the Committee on Rules at the Clerk's desk. Agreed.

At the appropriate time the President resumed the Chair and called the Senate to order.

The Chair stated that without objection the rules are suspended for the purpose of receiving report of committees.

Report of Committees

Committee on Rules reported **HB 1** has been recommitted to the Committee of the Whole.

Motions, Petitions and Communications

Senator Wright moved that the provisions of Rule 73, Rules of the Senate notwithstanding, that the Senate now resolve itself into a Committee of the Whole for the purposes of considering **HB 1** of this Extraordinary Session, deliberating thereon, considering motions thereon, amendments thereto and following a roll call vote of the members of the Committee of the Whole, making a report thereon to the Senate. Agreed.

Committee of the Whole

The Senate pursuant to the motion agreed to, resolved itself into a Committee of the Whole.

The Chair appointed Senator John A. "Eck" Rose, President Pro Tempore, as Chairman of the Committee of the Whole.

At the appropriate time the President resumed the Chair and called the Senate to order.

Announcements

It was announced that the Committee on Appropriations and Revenue will meet at 9:00 a.m., Thursday, October 22, 1987.

Senator Allen moved that the rules be suspended for the purpose of introducing and considering a resolution. Agreed.

Introduction of Bills and Resolutions (Cont.)

SR 11, by Senators Allen, Powers and May: A RESOLUTION adjourning the Senate in memory and honor of Coach John Fields of Maysville, Kentucky.

Senator Allen moved the adoption of **SR 11**. Agreed.

SR 11 is as follows:

SR 11, A RESOLUTION adjourning the Senate in memory and honor of Coach John Fields of Maysville, Kentucky.

With heartfelt sorrow we pay homage and tribute to the memory of our fallen brother John Fields:

WHEREAS, on September 18, 1987 John Fields of Maysville, Kentucky crossed that final bourne from which no traveler returns at the age of 72; and

WHEREAS, John Fields was a graduate of Kentucky State University and received a Masters degree from Morehead State University; and

WHEREAS, in 1934 John Fields quarterbacked the Kentucky State College football team to a national championship title; and

WHEREAS, John Fields was a dedicated educator for thirty years in the Maysville Independent School System serving as a history teacher, guidance counselor and assistant basketball coach; and

WHEREAS, while coaching at the John G. Fee High School, John Fields' teams frequently participated in the State Basketball Tournament; and

WHEREAS, over the past several years John Fields had been contributing his immeasurable talents and energy to the higher education system as a counselor at Morehead State University; and

WHEREAS, John Fields was committed to the youth of the Commonwealth and devoted countless hours as a physical director of the YMCA; and

WHEREAS, John Fields was a deeply religious individual, and was an active member and historian of the Scotts United Methodist Church; and

WHEREAS, John Fields' community and civic organizations included membership on the RSVP Board, in fact John Fields was instrumental in initiating the Annual RSVP Golf Tournament, as well as membership in Masonic Lodge #27 FA&N Acacia, the Mason County Fund and the Kentucky State University Alumni Association; and

WHEREAS, John Fields was a loving husband, devoted father, and compassionate friend to all whose presence will be sorely missed throughout the Maysville community;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do hereby express their sense of bereavement and loss upon the passing of John Fields and commend his loved ones to the solace of the Almighty during these dark and painful hours.

Section 2. That the Senate posthumously hails John Fields to have been an outstanding citizen and exemplary representative of the Commonwealth.

Section 3. That when the Senate of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Wednesday, October 21, 1987, it does so in memory and honor of Coach John Fields of Maysville, Kentucky.

Section 4. That the Clerk of the Senate is hereby directed to transmit a copy of this resolution to Mrs. Alice Wormley and Mrs. Anna B. Frey, East Fifth Street, Maysville, Kentucky 41056; Mr. Charlton Fields, 326 East Fifth Street, Maysville; and to Mr. Bob Bibble, Superintendent of the Maysville Independent School System.

The Chair stated that without objection the rules are suspended for the purpose of receiving report of committees.

Report of Committees

The Committee of the Whole reported **HB 1** with Committee Amendments attached thereto with expression of opinion that same should pass. Ordered referred to the Committee on Rules.

Amend printed copy of GA copy of **HB 1** on pages 88, 89, and 90, to remove Section 52 in its entirety, and insert in lieu thereof the following:

"Section 52. In those sections which are effective prior to the date on which administrative law judges assume their duties, the term "administrative law judge" shall mean "the workers' compensation board". "

Amend printed copy of GA copy of **HB 1** on page 18, beginning on line 13 through page 19, line 24 by deleting the language in its entirety and by inserting in lieu thereof:

"(2) On October 31, 1988, and each October 31 thereafter the funding commission shall determine the amount of premiums reported and assessments imposed in subsection 1 of this section for such past period as appropriate. If the funding commission determines that the special fund assessment rate imposed to produce seventy million dollars ($70,000,000) or the additional special fund assessment rate imposed to produce forty million dollars ($40,000,000) are likely to produce more or less than seventy million dollars ($70,000,000) or forty million dollars ($40,000,000) during the next annual period, the commission shall, based upon such determination calculate such adjustments to each rate as shall be necessary to provide seventy million dollars ($70,000,000) and forty million dollars ($40,000,000) respectively during the next annual period beginning on April 1 of each year. On or before March 1 of each year, the commission shall notify each insurance company writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the adjusted rates which shall become effective on April 1 of each year, unless modified by the general assembly."

Amend printed copy of GA copy of **HB 1** on page 46, line 14, delete the words "*following the hearing*" and insert in lieu thereof the words "*after the case is submitted*".

Amend printed copy of **HB 1** on page 6, line 15 after the word "*Act,*" add "*and periodically thereafter,*";

And on page 6, line 18 after the word "fair" add ", *current,*";

And on page 6, line 20 after the word "are" add "*fair, current, and*".

Amend printed copy of GA copy of **HB 1** on page 6, line 17, after the word "fees" to insert a "," comma;

And on page 6, line 17, to bracket and strikethrough the word "and";

And on page 6, line 17, after the word "charges" to insert the words "*and reimbursements*".

Amend printed copy of GA copy of **HB 1** on page 4, line 17, after the word "treated." insert the following:

"The employer, or an insurer on behalf of the employer shall make all payments for services rendered to an employe directly to the provider of such services within thirty (30) days of receipt of a statement for services."

Amend printed copy of GA copy of **HB 1** on page 6, by deleting line 26 in its entirety;

And on page 7, by deleting lines 1 through 3 in their entirety;

And on page 7, line 4 by deleting the number "*(3)*" and removing the brackets and strikethroughs from the number "(2)".

Amend printed copy of GA copy of **HB 1** on page 32, by deleting lines 21 through 26 in their entirety;

And on page 33, by deleting lines 1 through 11 in their entirety.

Amend printed copy of GA copy of **HB 1** on page 34, line 20, after the word "governor" to insert the following:

"*with the consent of the Senate*".

Amend printed copy of GA copy of **HB 1** on page 39, line 1, after the word "*employ*" to insert the following:

"*with the consent of the Senate for a term of four (4) years*";

And on page 39, lines 6 and 7, to delete the words "*and shall be subject to the same standards of conduct*" and to insert in lieu thereof the following:

", *shall be subject to removal during the term of employment for violation of the code of judicial ethics, and may be employed for additional terms of four (4) years with the consent of the Senate*"

Amend printed copy of GA copy of **HB 1** on page 51, line 20, by deleting "*court of appeals*" and by inserting in lieu thereof "*board, if*";

On page 51, line 21, by removing the closing bracket after "court" and by striking through "to which" and by placing a closing bracket after "which"; and by inserting a"," before "may";

On page 51, line 25, by removing the brackets and strike throughs.

The Chair stated that without objection the rules are suspended for the purpose of filing floor amendments.

Announcements

The Clerk reported the following floor amendments have been filed:

Floor amendment No. 21 to **HB 1**, filed by Senator LeMaster, as follows:

Amend printed copy of GA copy of **HB 1** on page 39, line 9, before the word "These" to insert the following:

"*The term of office for the administrative law judges shall be four (4) years, and they shall be eligible for reappointment.*"

Floor amendment No. 22 to **HB 1**, filed by Senator Rogers as follows:

Amend printed copy of GA copy of **HB 1** on page 1, prior to the enacting clause, by inserting the following:

"Whereas, the general assembly finds and declares that the current projected liability of the Kentucky workers' compensation special fund is one billion, seven hundred million dollars ($1,700,000,000); and

Whereas, the general assembly finds and declares that more than fifty (50%) of the projected liability of the special fund is attributable to benefits awarded for black lung medical and coal mine occupational disability conditions which have not been uniformly and conclusively established to be significantly disabling; and

Whereas, the United States Congress has enacted comprehensive legislation which has been conclusively proven to reasonably measure such disabilities and to award compensation accordingly; and

Whereas, federal black lung claims have no cost effect on the Kentucky special fund as they are paid entirely by coal operators, it is, therefore, the intention of the general assembly to set black lung compensation under the Kentucky workers' compensation act to be equal to the compensation afforded black lung under the federal coal mine health and safety act in all respects with no participation by the Kentucky special fund, thereby saving an estimated seventy million dollars ($70,000,000) per year in future special fund costs;

NOW, THEREFORE,"

And on page 1, after the enacting clause, by inserting the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of KRS Chapter 342, all of the benefits, presumptions, criteria, regulations and standards contained in or promulgated by reason of the federal coal mine health and safety act of 1969, as amended, on or before October 1, 1987, are specified as the exclusive basis for the workers' compensation board to award benefits and determine the eligibility of applicants for benefits for coal workers' pneumoconiosis and its sequelae arising out of and in the course of occupational exposure to coal dust in the Commonwealth.

(2) Notwithstanding any other provision of KRS Chapter 342, the special fund shall not be a party to any claim for benefits for coal workers' pneumoconiosis and its sequelae arising out of and in the course of occupational exposure to coal dust in the Commonwealth nor shall the special fund pay any portion of any benefit awarded, pursuant to this Act.

(3) Within thirty (30) days of the effective date of this Act, the secretary of labor shall make a written request to the secretary of the United States department of labor or his designee to certify that compensation of claims for coal workers' pneumoconiosis and its sequelae arising out of and in the course of occupational exposure to coal dust in the Commonwealth, complies with the requirements of section 421 (b)(2) of the federal coal mine health and safety act of 1969, as amended. The secretary of labor shall determine the procedural requirements of the federal program that are required for certification and adopt such administrative regulations as are required by the federal coal mine health and safety act of 1969, as amended, on or before November 1, 1987, to obtain the certification set forth in section 421 (b)(2). Within sixty (60) days of the effective date of this Act, the secretary of labor shall report to the governor and the general assembly the progress of the request for certification and shall recommend such additional legislation as may be necessary to complete the certification process.

(4) Notwithstanding any other provision of KRS chapter 342, the provisions of this Act shall be effective for all claims for benefits due to coal workers' pneumoconiosis and its sequelae arising out of and in the course of occupational exposure to coal dust in the Commonwealth, when the last day of said occupational exposure occurs on or after the effective date of this Act.

Section 2. The provisions of KRS 342.800 shall not apply to any claim for benefits filed pursuant to this Act."

And on page 130, after Section 74, by inserting the following:

"Section 75. Whereas, it is necessary to immediately reduce the liability of the special fund for future claims for benefits due to coal workers' pneumoconiosis and its sequelae arising out of and in the course of occupational exposure to coal dust in the Commonwealth, and it is necessary for the economic prosperity of the Commonwealth for present and future employers in the Commonwealth to reliably predict the future level of special fund assessments and their liabilities for workers' compensation claims, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the governor."

And to renumber all Sections and in text references in this Act accordingly.

Floor amendment No. 23 to **HB 1**, filed by Senator LeMaster, as follows:

Amend printed copy of **HB 1** on page 39, line 1, to delete the words "*board*" and "*employ*" and remove tl e brackets and strikethroughs from the words "governor" and "appoint".

Floor amendment No. 24 to **HB 1**, filed by Senator LeMaster, as follows:

Amend printed copy of GA copy of **HB 1** on page 39, line 5, to delete the words "*except residence in a district, and*";

And on page 39, line 9, before the word "These" to insert the following:

"*At least one (1) administrative law judge shall be appointed from and reside within each of the seven (7) appellate court districts. No person shall be eligible to serve as an administrative law judge unless such person*

shall have resided in the appellate court district from which he or she is appointed for at least one (1) year prior to the appointment. The additional administrative law judges shall be apportioned to, appointed from and reside within those appellate court districts from which the greater number of workers' compensation claims arise. The board shall annually review the claims filed to determine the appellate court districts of their origin."

Floor amendment No. 25 to **HB 1**, filed by Senator Brinkley, as follows:

Amend printed copy of GA copy of **HB 1** on page 5, line 2, to delete the words "*administrative law judge*";

And on page 5, line 3, to remove the bracket and strikethroughs from the word "board";

And on page 5, line 15, to delete the words "*administrative law judge*";

And on page 5, line 16, to remove the brackets and strikethroughs from the word "board";

And on page 7, line 1, delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 8, line 10, delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 8, lines 13 through 26, and on page 9, lines 1 through 3, to remove Section 8 in its entirety;

And on page 9, line 22, to delete the word "*administrative*";

And on page 9, line 23, to delete the words "*law judge*" and "*administrative law judge*" and to remove the brackets and strikethroughs from the word "board";

And on page 9, line 24, to delete the word "his" and to remove the brackets and strikethroughs from the words "board" and "its";

And on page 10, line 13, to delete the words "*administrative law judge*" and to remove the brackets and strikethroughs from the word "board";

And on page 10, line 26, to delete the word "*administrative*";

And on page 11, line 1, to delete the words "*law judge*" and to remove the brackets and strikethroughs from the word "board";

And on page 11, line 16, to delete the words "*administrative law*";

And on page 11, line 17, to delete the word "*judge*" and to remove the brackets and strikethroughs from the word "board";

And on page 12, line 14, to delete "*administrative law judge*" and to insert in lieu thereof "*board*"

And on pages 12, 13, and 14, to remove Section 11 in its entirety;

And on page 26, line 11, to delete the words "*administrative law judge*";

And on page 26, line 12, to remove the brackets and strikethroughs from the word "board";

And on page 26, line 16, delete the word "*his*";

And on page 26, line 17, to remove the brackets and strikethroughs from the word "its";

And on page 26, line 18, to delete the word "*his*" and to remove the brackets and strikethroughs from the word "its";

And on page 28, line 5, to delete the words "*administrative law judge*" and to remove the brackets and strikethroughs from the word "board";

And on page 28, line 10, to delete the words "*administrative law judge*" and to remove the brackets and strikethroughs from the word "board";

And on pages 29 and 30 to remove Section 18 in its entirety;

And on page 30, to remove Section 19 in its entirety;

And on pages 30 and 31, to remove Section 20 in its entirety;

And on pages 33 and 34, to remove Section 22 in its entirety;

And on pages 34 through 37, to delete Sections 23 and 24 in their entirety;

And on page 38, line 6, to delete the words ", *administrative law judges*";

And on page 38, line 21, to delete the word "*and*";

And on page 38, line 22 to delete "*the administrative law judges*"

And on page 38, line 23, to delete "*and administrative law judges*"

And on page 39, line 2, to delete the words "*ten (10) administrative law judges*" and to remove the bracket and strikethroughs from the word "the";

And on page 39, line 3, to remove the strikethroughs;

And on page 39, line 4, to remove the bracket and strikethroughs from the word "board" and to delete the words "*have the qualifications of a*";

And on page 39, to delete lines 5 and 6 in their entirety;

And on page 39, line 7, to delete the words "*standards of conduct*" and to remove the bracket and strikethroughs from the words "be an attorney admitted to practice";

And on page 39, line 8, to remove the strikethroughs;

And on page 39, line 9, to remove the bracket and strikethroughs from the words "three (3) years" and to delete the words "*administrative law judges*" and to insert in lieu thereof the words "*officer upon the direction of the commissioner*";

And on page 39, line 10, to remove bracket and strikethroughs;

And on page 39, line 11, to remove bracket and strikethroughs from the word "board";

And on page 39, line 13, to insert after the word "*and*" the words "*the commissioner or the board except that such hearing officers*";

And on page 39, line 14, to remove the brackets and strikethroughs from the word "not";

And on page 39, line 15, to remove the bracket and strikethroughs from the word "However";

And on page 39, line 16, to remove the brackets and strikethroughs from the words "such" and "Hearing officers" and delete the words "*Administrative law judges*";

And on page 39, line 17, to remove the brackets and strikethroughs from the words "on behalf of the board";

And on page 39, line 24, to delete the words "*administrative law judge for violation*"; and on page 39, line 25, to delete the words "*of the code of judicial ethics*" and to remove the strikethroughs from the words "hearing officer" and to place the brackets before the word "upon";

And on page 40, lines 9 and 10, to delete the words "*and those of the administrative law judges*";

And on page 40, lines 12 and 13, to delete the words "*and the administrative law judges*";

And on page 40, line 19, to delete the words "*an administrative law judge or*";

And on page 40, lines 24 and 25, to delete the words "*and the administrative law judges*";

And on page 41, line 3, to delete the words "*each administrative law judge and*";

And on page 41, line 10, to delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 41, line 25, to delete the words "*and the work of the administrative law*";

And on page 41, line 26, to delete the word "*judges*";

And on page 42, line 6, to delete the words "*or any administrative law judge*";

And on page 42, line 13, to delete the words "*and administrative law judges*";

And on page 42, line 16, to delete the words "*or any administrative law judge*";

And on page 42, line 20, to remove the brackets and strikethroughs from the word "or" and to delete the "," comma after the word "board" and to delete the words "*or any administrative*";

And on page 42, line 21, to delete the words "*law judge,*";

And on pages 42 and 43, to remove Section 30 in its entirety;

And on page 44, line 5, to delete the words "*within thirty (30) days*" and to remove the brackets and strikethroughs from the words "as soon as possible";

And on page 44, line 10, to delete the words " *the pre-hearing conference*" and remove the bracket and strikethroughs from the word "such";

And on page 44, line 11, to remove the bracket and strikethroughs;

And on page 44, line 12, to remove the bracket and strikethroughs;

And on page 44, line 13, to remove the bracket and strikethroughs from the words "authorized by the board, the hearing" and to delete the words "*The pre-hearing*";

And on page 44, line 14, to delete the word "*conference*";

And on page 44, line 15, to delete the words "*employe resides provided that such hearing shall*";

And on page 44, line 16, to delete the words "*be held within the boundaries of the Commonwealth*" and to remove the bracket and strikethroughs from the word "injury";

And on page 44, lines 17 and 18 to remove the brackets and strikethroughs;

And on page 44, line 19 to insert a bracket and the words "*the commissioner*" after the word "director" and to remove the strikethroughs from the words "or a" and to remove the bracket after the word "a" and to delete the words "*At the pre-hearing conference, and*";

And on page 44, line 20, to delete the words "*administrative law judge*" and to remove the bracket and strikethroughs from the words "hearing officer authorized by";

And on page 44, line 21, to remove the brackets and strikethroughs from the words "the board" and "may" and to delete the word "*shall*";

And on page 44, line 22, to delete the words "*and their counsel if any, for the*";

And on page 44 to delete lines 23 through 26 in their entirety;

And on page 45, to delete lines 1 through 4 in their entirety;

And on page 45, line 5, to delete the words "*become a part of the record*" and to remove the bracket and strikethroughs from the words "in and attempt to assist in";

And on page 45, lines 6 through 8 to remove the bracket and strikethroughs;

And on page 45, line 10, to delete "*administrative*";

And on page 45, line 11, to delete "*law judge*" and to remove the bracket and strikethrough from the word "board"

And on page 45, line 16, to delete the words "*administrative law judge*" and to remove the brackets and strikethroughs from the word "board";

And on page 45, beginning on line 22 by deleting Section 32 in its entirety;

And on page 47, beginning on line 5, by deleting section 33 in its entirety;

On page 47, lines 23 through 24 by deleting the words "*administrative law judge*"; and

On page 47, line 24, by deleting the brackets and strikethroughs around the word "board"; and

On page 48, lines 1-2, by deleting the words "*in accordance with administrative regulations promulgated by the board*"; and

On page 48, lines 3-4, by deleting the brackets and strikethroughs; and

On page 48, line 3, by inserting before the word "twenty" the phrase "*thirty (30)*" and by bracketing and striking through the word "twenty"; and

On page 48, line 5, by deleting "*workers' compensation board*"

and inserting in lieu thereof "*court of appeals*"; and

On page 48, lines 8-11 by deleting the brackets and strikethroughs; and

On page 48, lines 12-22 by deleting the brackets and strikethroughs; and

On page 48, line 18, by inserting "*Court of Appeals*" before the word "circuit court" and by placing brackets around and striking through the words "circuit court"; and

On page 48, line 20, by inserting "*Court of Appeals*" before the word "circuit court" and by placing brackets around and striking through the words "circuit court"; and

On page 48, line 22, to add the words "*Court of Appeals*" and to place brackets around the words "*circuit court*"; and

On page 48, line 24, by deleting the word "*board*" and inserting in lieu thereof the words "*Court of Appeals*"; and

On page 49, line 1, by deleting the word "*board*" and inserting in lieu thereof the words "*Court of Appeals*"; and

On page 49, line 3 by deleting the words "*administrative law judge*"; and

On page 49, line 4, by deleting the brackets and strikethroughs around the word "board"; and

On page 49, line 5, by deleting the word "*board*" and by deleting the brackets and strikethroughs around the word "court"; and

On page 49, line 6 by deleting the words "*administrative law judge*"; and

On page 49, line 7, by deleting the brackets and strikethroughs around the word "board"; and

And on page 49, line 10, to delete the words "*administrative law judge*" and to remove the brackets and strikethroughs from the word "board";

And on page 49 beginning on line 22 and on page 50, to delete subsection (3) in its entirety;

And on page 50, line 16, by placing a bracket before the word "all" and striking through the words "all matters subject to review by the" and by deleting the word "*board*";

And on page 50, line 17, by removing the bracket before the word "circuit" and by removing the bracket after the word "court" and by inserting a bracket after the word "also" and by striking through the words "and also";

And on page 50, lines 22 through 26, to remove the strikethroughs;

And on pages 51 through 52, to remove Section 38 in its entirety;

And on page 52 and 53, to remove Section 39 in its entirety;

On page 53, line 11, to delete "*an administrative law judge*"

On page 53, lines 11 and 12 to remove the brackets and strikethroughs from the words "the board, or any member thereof,"

On page 53, line 13, to delete "*his*"

On page 53, line 13, to remove the brackets and strikethroughs from the word "*its*"

On page 53, lines 17 and 18, to delete "*administrative law judge*"

On page 53, line 18, to remove the brackets and strikethroughs from the word "board"

On page 53, line 21, delete "*administrative law judge*"

On page 53, line 21, to remove the brackets and strikethroughs from the word "board"

On page 53, line 24, to delete "*administrative law judge*"

On page 53, line 24, to remove the brackets and strikethroughs from the word "board"

On page 54, line 1, to delete "*administrative law judge*"

On page 54, line 1, to delete "*his*"

On page 54, line 1, to remove the brackets and strikethroughs from the words "its" and "board"

On page 54, lines 8 and 9, to delete "*administrative law judge's*"

On page 54, line 9, to remove the brackets and strikethroughs from the word "boards"

On page 55, line 17, to delete the words "*by the administrative law judge*"

On page 60, line 16, to delete "*an administrative law judge*"

On page 60, line 17, to remove brackets and strikethroughs from the words "the board"

On page 60, line 19, to delete "*administrative law judge*"

On page 60, line 19, to remove the brackets and strikethroughs from the word "board"

On page 60, line 20, to delete "*pre-hearing conference*"

On page 60, line 20, to remove brackets and strikethroughs from the word "hearing"

On page 60, line 24, to delete the words "*administrative law judge*" and to insert in lieu thereof the word "*board*"

On page 66, lines 3 and 4, to delete the words "*administrative law judge*"; and

On page 66, line 4, to delete the bracket and strikethrough of the word "board"

And on page 68, lines 10 and 11, to delete "*administrative law judge pursuant to the statutes and any administrative regulations*";

And on page 68, line 11, to remove brackets and strikethroughs from the word "board";

And on page 69, line 2, to delete "*administrative law judge*";

And on page 69, line 2, to remove the brackets and strikethroughs from the word "board";

And on page 69, lines 6 and 77 to delete "*administrative law judge*";

And on page 69, line 7, to remove the brackets and strikethroughs from the word "board";

And on page 69, line 16, to delete "*administrative law judge*";

And on page 69, line 16, to remove the brackets and strikethroughs from the word "board";

And on page 69, line 21, to delete "*administrative law judge*" and to insert in lieu thereof "*board*";

And on page 69, line 25, to delete "*administrative law judge*" and to insert in lieu thereof "*board*";

And on page 70, line 4, to delete "*administrative law judge*" and to insert in lieu thereof "*board*";

And on page 71, line 10, to delete "*administrative law judge*" and to remove the brackets and strikethroughs from the word "board";

And on page 71, line 13, to delete "*administrative law judge*" and to remove the brackets and strikethroughs from the word "board";

And on page 72, line 2, to delete "*administrative law judge*" and to insert in lieu thereof "*board*";

And on page 72, line 3, to delete "*administrative law judge*" and to insert in lieu thereof "*board*";

And on page 72, line 8, to delete the words "*the administrative law judge*" and to insert in lieu thereof the word "*board*";

And on page 72, lines 17 through 24, to delete the same and to renumber the succeeding sections and in text references;

And on page 73, delete Section 46 in its entirety;

And on page 90, delete Section 53 in its entirety;

And to renumber the succeeding sections and in text references;

And on page 93, line 26, to delete *"administrative law"*;

And on page 94, line 1, to delete "*judge*";

And on page 94, line 1, to remove the brackets and strikethroughs from the word "board";

And on page 94, lines 2 and 3, to delete *"administrative law judge"*;

And on page 94, line 3, to remove the brackets and strikethroughs from the word "board";

And on page 94, line 3, to delete *"his"*;

And on page 94, line 3, to remove the brackets and strikethroughs from the word "its";

And on page 94, lines 11 and 12, to delete *"administrative law judge"*;

And on page 94, line 12, to remove the brackets and strikethroughs from the word "board";

And on page 94, line 15, to delete *"administrative law judge"*;

And on page 94, line 15, to remove the brackets and strikethroughs from the word "board";

And on page 94, lines 20 and 21, to delete *"administrative law judge"*;

And on page 94, line 21, to remove the brackets and strikethroughs from the word "board";

And on page 95, line 5, to delete *"administrative law judge"*

And on page 95, line 5, to remove the brackets and strikethroughs from the words "the board";

And on page 99, line 18 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 100, line 16 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 100, line 24 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 101, line 12 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 102, line 1 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 102, line 13 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 102, line 21 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 103, line 2 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 103, line 18 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 103, line 21 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 105, line 24, to delete *"administrative law judge"*;

And on page 105, line 24, to remove the brackets and strikethroughs from the word "board";

And on page 105, line 24, to delete *"his"*;

And on page 105, line 25, to remove the brackets and strikethroughs from the word "its";

And on page 106, lines 25 and 26, to remove "*administrative law judge*";

And on page 106, line 26, to remove the bracket and strikethrough of the word "board"

And on page 107, line 3, to remove "*administrative law judge*" and to delete the bracket and strikethrough of the word "board"

And on pages 110 through 114, to remove Section 61 in its entirety;

And on page 114, line 9, to delete "*an*" and "*of the administrative law judge*" and to remove the brackets and strikethrough of the word "board";

And on page 125, line 1, to delete "*administrative law*" and to insert in lieu thereof "*hearing officer*"

And on page 125, line 2 to delete "*judge*" and "*administrative law judge*" and to insert in lieu thereof "*hearing officer*";

And on page 125, line 5, to delete the words "*administrative law judge*" and to insert in lieu thereof "*hearing officer*"

And on page 127, line 21, to delete "KRS 342.123 Creation of Kentucky"

And on page 127, to remove lines 22 through 25 in their entirety;

And on page 127, line 26, to remove the word "appropriation-";

And on page 128, to remove lines 1 through 11 in their entirety;

And to renumber the sections and in-text references throughout the bill

Floor amendment No. 26 to **HB** 1, filed by Senator LeMaster, as follows:

Amend printed copy of GA copy of **HB** 1 on page 39, line 9, before the word "These" to insert the following:

"*At least one (1) administrative law judge shall be appointed from and reside within each of the seven (7) appellate court districts.*"

Floor amendment No. 27 to **HB** 1, filed by Senator LeMaster, as follows:

Amend printed copy of **HB** 1 on page 39, line 2, before the word "not" to insert the following: "*at least seven (7) but*".

Floor amendment No. 28 to **HB** 1, filed by Senator Trevey, as follows:

Amend printed copy of GA copy of **HB** 1 on page 7, beginning on line 12, by removing Section 7 in its entirety and renumbering the Sections accordingly;

And on page 11, lines 24 and 25 by deleting the following:

"*except retraining incentive benefits awarded pursuant to Section 57 of this Act,*";

And on page 26, lines 13 and 14 by deleting the following:

"*except as provided in subsection (2) of this section,*";

And on pages 26, 27 and 28 by deleting subsection 2 in its entirety and renumbering the succeeding subsection;

And on page 44, by deleting lines 2 and 3 in their entirety;

And on page 55, lines 14 through 18, by deleting the following:

", *except that the time of the beginning of retraining incentive benefits awarded under Section 57 of this Act shall be the date the award for such benefits by the administrative law judge becomes final*"

And on page 62, line 2, by deleting the following:

"*or retraining incentive*"

And on page 66, lines 20 and 21, by removing the following:

"*Except as provided in paragraph (c) of this subsection*";

And on page 68, by deleting lines 2 through 5 in their entirety;

And on page 99, line 15, by deleting the following:

"*and retraining incentive benefits*";

And on page 99, by deleting lines 18 through 26 in their entirety;

And on page 100, by deleting lines 1 through 23 in their entirety and relettering the succeeding paragraphs.

Floor amendment No. 29 to **HB 1**, filed by Senator Friend, as follows:

Amend printed copy of GA copy of **HB 1** on page 17, line 1, by adding after the "," the following: *except as provided for in paragraph (b) of this subsection,*;

line 10, by adding after the word "and" and before the word "*there*" the following: , *except as provided for in paragraph (b) of this subsection,*;

after line 22, by adding the following:

(b) Workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severing and/or processing of coal, and premiums, as defined in KRS 342.620, of employers carrying their own risk who are engaged in the severing and/or processing of coal, shall be exempt from the provisions of paragraph (a) of this subsection.

line 23, by inserting before the paragraph designation "*(b)*" the paragraph designation *(c)*, and by bracketing and striking through the paragraph designation "*(b)*";

line 25, by deleting the words "*at the rate of forty percent (40%)*",

line 26, by deleting the words "*upon the amount of workers' compensation*",

Page 18, lines 1 through 9, by deleting lines 1 through 9 in their entirety, and by inserting in their place, the following:

on every taxpayer engaged in severing and/or processing coal within this Commonwealth at the rate of one and five tenths percent (1.5%) of the gross value of all coal severed and/or processed during the reporting period, effective for all reporting periods beginning after October 31, 1987. The assessment shall be reported on the same form and paid in the same manner as the tax imposed under the provisions of KRS Chapter 143. The assessment shall be paid to the revenue cabinet, which shall deposit the funds collected to the credit of the benefit reserve fund within the Kentucky workers' compensation funding commission. The terms "coal", "severed", "severing", "taxpayer", "gross value", "reporting period" and "processing", and any other terms applicable to the administration of the provisions of this paragraph shall mean the same as such terms defined in KRS 143.010. Sections KRS 143.035, 143.040, 143.050, 143.060, 143.070 and 143.080, which are applicable to the administration of the provisions of this paragraph, are hereby adopted.

(c) Any taxpayer who fails to file required returns or remit the assessment due under paragraph (b) of this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months, or both.

line 25, by deleting "*seventy*", and inserting in its place *forty-seven*;

line 26, by deleting the parenthetical amount "*($70,000,000)*" and inserting its place the parenthetical amount *($47,000,000).*

Page 19, line 2, by deleting "*forty*", and inserting in its place *sixty-three*, and by deleting the parenthetical amount "*($40,000,000)*" and inserting its place the parenthetical amount *($63,000,000).*

line 25, by inserting after the subsection number "(3)" the word *The*, by bracketing and striking through the word "All", by inserting after the bracket following the word "~~and~~" the words, *assessment provided for in*, and by bracketing and striking through the words "assessments imposed by",

line 26, by deleting the bracket before the word "~~subsection~~"

and by deleting the strikes through the word "subsection", by adding, following the word "subsection", *(1)(a)*, by bracketing the subsection number "~~(2)~~", and by deleting the strikes through and the bracket following the word "of",

Page 20, line 13, by deleting the words "*Such assessments*", and inserting in their place the words, *The assessment provided for in subsection (1)(a) of this section.*

line 24, by deleting the word "*assessments*" and inserting in its place the word *assessment,*

line 25, by deleting the word "*herein*", and inserting in its place the words, *under the provisions of subsection (1)(a) of this section,*

Page 21, line 4, by deleting the word "*a*", and inserting in its place the word, *the*, and by inserting after the word "*assessment*" the words, *provided for in subsection (1)(a) of this section.*

Page 25, line 4, by deleting the word "*Assessments*" and inserting in its place the words, *The assessment,* and by adding after the word "*to*" the words, *subsection (1)(a) of.*

Page 25, line 18, by adding after the word "*carrier*" the words, *or taxpayer.*

line 26, by deleting the word "*assessments*" and inserting in its place the word *assessment*;

Page 26, line 1, by deleting the words "*assessments have*" and inserting in their place the words *assessment has*;

line 2, by inserting after the word "*by*" the following: *subsection (1)(a) of*;

line 3, by deleting the word "*assessments*" and inserting in its place the word *assessment*;

line 4, by deleting the word "*are*" and inserting in its place the word *is*;

line 5, by deleting the word "*assessments*" and inserting in its place the word *assessment.*

Page 83, lines 25 and 26, by deleting lines 25 and 26 in their entirety.

Page 84, lines 1 through 25, by deleting lines 1 through 25 in their entirety, and by renumbering subsequent subsections to conform.

Floor amendment No. 30 to **HB 1**, filed by Senator Friend, as follows:

Amend printed copy of GA copy of **HB 1** on page 17, line 25, by deleting the words "*at the rate of forty percent (40%)*",

line 26, by deleting the words "*upon the amount of workers' compensation*",

Page 18, lines 1 through 9, by deleting lines 1 through 9 in their entirety, and by inserting in their place, the following:

on every taxpayer engaged in severing coal within this Commonwealth at the rate of twenty-five (25) cents per ton of all coal severed during the reporting period, effective for all reporting periods beginning after October 31, 1987. The assessment shall be reported on the same form and paid in the same manner as the tax imposed under the provisions of KRS Chapter 143. The assessment shall be paid to the revenue cabinet, which shall deposit the funds collected to the credit of the benefit reserve fund within the Kentucky workers' compensation funding commission. The terms "coal", "severed", "severing", "taxpayer", "reporting period" and "ton" and any other terms applicable to the administration of the provisions of this paragraph shall mean the same as such terms defined in KRS 143.010. Sections KRS 143.035, 143.040, 143.050, 143.060, 143.070 and 143.080, which are applicable to the administration of the provisions of this paragraph, are hereby adopted.

(c) Any taxpayer who fails to file required returns or remit the assessment due under paragraph (b) of this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months, or both.

Page 19, line 25, by inserting after the subsection number "(3)" the word *The*, by bracketing and striking through the word "All", by inserting after the bracket following the word "~~and~~" the words, *assessment provided for in*, and by bracketing and striking through the words "assessments imposed by",

line 26, by deleting the bracket before the word "~~subsection~~" and by deleting the strikes through the word "subsection", by adding, following the word "subsection", *(1)(a)*, by bracketing the subsection number "~~(2)~~", and by deleting the strikes through and the bracket following the word "of",

Page 20, line 13, by deleting the words "*Such assessments*", and inserting in their place the words, *The assessment provided for in subsection (1)(a) of this section.*

line 24, by deleting the word "*assessments*" and inserting in its place the word *assessment*,

line 25, by deleting the word "*herein*", and inserting in its place the words, *under the provisions of subsection (1)(a) of this section*,

Page 21, line 4, by deleting the word "*a*", and inserting in its place the word, *the*, and by inserting after the word "*assessment*" the words, *provided for in subsection (1)(a) of this section.*

Page 25, line 4, by deleting the word "*Assessments*" and inserting in its place the words, *The assessment*, and by adding after the word "*to*" the words, *subsection (1)(a) of.*

Page 25, line 18, by adding after the word "*carrier*" the words, *or taxpayer.*

line 26, by deleting the word "*assessments*" and inserting in its place the word *assessment*;

Page 26, line 1, by deleting the words "*assessments have*" and inserting in their place the words *assessment has*;

line 2, by inserting after the word "*by*" the following: *subsection (1)(a) of*;

line 3, by deleting the word "*assessments*" and inserting in its place the word *assessment*;

line 4, by deleting the word "*are*" and inserting in its place the word *is*;

line 5, by deleting the word "*assessments*" and inserting in its place the word *assessment.*

Page 83, lines 25 and 26, by deleting lines 25 and 26 in their entirety.

Page 84, lines 1 through 25, by deleting lines 1 through 25 in their entirety, and by renumbering subsequent subsections to conform.

Floor amendment No. 31 to **HB 1**, filed by Senator Friend, as follows:

Amend printed copy of GA copy of **HB 1** on page 17, line 25, by deleting the words "*at the rate of forty percent (40%)*",

line 26, by deleting the words "*upon the amount of workers' compensation*",

Page 18, lines 1 through 9, by deleting lines 1 through 9 in their entirety, and by inserting in their place, the following:

on every taxpayer engaged in severing and/or processing coal within this Commonwealth at the rate of one percent (1%) of the gross value of all coal severed and/or processed during the reporting period, effective for all reporting periods beginning after October 31, 1987. The assessment shall be reported on the same form and paid in the same manner as the tax imposed under the provisions of KRS Chapter 143. The assessment shall be paid to the revenue cabinet, which shall deposit the funds collected to the credit of the benefit reserve fund within the Kentucky workers' compensation funding commission. The terms "coal", "severed", "severing", "taxpayer", "gross value", "reporting period" and "processing", and any other terms applicable to the administration of the provisions of this paragraph shall mean the same as such terms defined in KRS 143.010. Sections KRS 143.035, 143.040, 143.050, 143.060, 143.070 and 143.080, which are applicable to the administration of the provisions of this paragraph, are hereby adopted.

(c) Any taxpayer who fails to file required returns or remit the assessment due under paragraph (b) of this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months, or both.

Page 19, line 25, by inserting after the subsection number "(3)" the word *The*, by bracketing and striking through the word "All", by inserting after the bracket following the word "~~and~~" the words, *assessment provided for in*, and by bracketing and striking through the words "assessments imposed by",

line 26, by deleting the bracket before the word "~~subsection~~" and by deleting the strikes through the word "subsection", by adding, following the word "subsection", *(1)(a)*, by bracketing the subsection number "~~(2)~~", and by deleting the strikes through and the bracket following the word "of",

Page 20, line 13, by deleting the words "*Such assessments*", and inserting in their place the words, *The assessment provided for in subsection (1)(a) of this section.*

line 24, by deleting the word "*assessments*" and inserting in its place the word *assessment*,

line 25, by deleting the word "*herein*", and inserting in its place the words, *under the provisions of subsection (1)(a) of this section*,

Page 21, line 4, by deleting the word "*a*", and inserting in its place the word, *the*, and by inserting after the word "*assessment*" the words, *provided for in subsection (1)(a) of this section.*

Page 25, line 4, by deleting the word "*Assessments*" and inserting in its place the words, *The assessment*, and by adding after the word "*to*" the words, *subsection (1)(a) of.*

line 18, by adding after the word "*carrier*" the words, *or taxpayer.*

line 26, by deleting the word "*assessments*" and inserting in its place the word *assessment*;

Page 26, line 1, by deleting the words "*assessments have*" and inserting in their place the words *assessment has*;

line 2, by inserting after the word "*by*" the following: *subsection (1)(a) of*;

line 3, by deleting the word "*assessments*" and inserting in its place the word *assessment*;

line 4, by deleting the word "*are*" and inserting in its place the word *is*;

line 5, by deleting the word "*assessments*" and inserting in its place the word *assessment.*

Page 83, lines 25 and 26, by deleting lines 25 and 26 in their entirety.

Page 84, lines 1 through 25, by deleting lines 1 through 25 in their entirety, and by renumbering subsequent subsections to conform.

Floor amendment No. 32 to **HB 1**, filed by Senator Friend, as follows:

Amend printed copy of GA copy of **HB 1** on page 17, line 1, by adding after the "," the following: *except as provided for in paragraph (b) of this subsection,*;

line 10, by adding after the word "and" and before the word "*there*" the following, , *except as provided for in paragraph (b) of this subsection,*;

after line 22, by adding the following:

(b) Workers' compensation premiums received by every insurance carrier writing workers' compensation insurance in the Commonwealth, and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severing of coal, and premiums, as defined in KRS 342.620, of employers carrying their own risk who are engaged in the severing of coal, shall be exempt from the provisions of paragraph (a) of this subsection.

line 23, by inserting before the paragraph designation "*(b)*" the paragraph designation *(c)*, and by bracketing and striking through the paragraph designation "*(b)*";

line 25, by deleting the words "*at the rate of forty percent (40%)*",

line 26, by deleting the words "*upon the amount of workers' compensation*",

Page 18, lines 1 through 9, by deleting lines 1 through 9 in their entirety, and by inserting in their place, the following:

on every taxpayer engaged in severing coal within this Commonwealth at the rate of forty (40) cents per ton of all coal severed during the reporting period, effective for all reporting periods beginning after October 31, 1987. The assessment shall be reported on the same form and paid in the same manner as the tax imposed under the provisions of KRS Chapter 143. The assessment shall be paid to the revenue cabinet, which shall deposit the funds collected to the credit of the benefit reserve fund within the Kentucky workers' compensation funding commission. The terms "coal", "severed", "severing", "taxpayer", "reporting period" and "ton", and any other terms applicable to the administration of the provisions of this paragraph shall mean the same as such terms defined in KRS 143.010. Sections KRS 143.035, 143.040, 143.050, 143.060, 143.070 and 143.080, which are applicable to the administration of the provisions of this paragraph, are hereby adopted.

(c) Any taxpayer who fails to file required returns or remit the assessment due under paragraph (b) of this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months, or both.

line 25, by deleting "*seventy*", and inserting in its place *forty-seven*;

line 26, by deleting the parenthetical amount "*($70,000,000)*" and inserting its place the parenthetical amount *($47,000,000).*

Page 19, line 2, by deleting "*forty*", and inserting in its place *sixty-three*, and by deleting the parenthetical amount "*($40,000,000)*" and inserting its place the parenthetical amount *($63,000,000).*

line 25, by inserting after the subsection number "(3)" the word *The*, by bracketing and striking through the word "All", by inserting after the bracket following the word "~~and~~" the words, *assessment provided for in*, and by bracketing and striking through the words "assessments imposed by",

line 26, by deleting the bracket before the word "~~subsection~~" and by deleting the strikes through the word "subsection", by adding, following the word "subsection", *(1)(a),* by bracketing the subsection number "~~(2)~~", and by deleting the strikes through and the bracket following the word "of",

Page 20, line 13, by deleting the words "*Such assessments*", and inserting in their place the words, *The assessment provided for in subsection (1)(a) of this section.*

line 24, by deleting the word "*assessments*" and inserting in its place the word *assessment,*

line 25, by deleting the word "*herein*", and inserting in its place the words, *under the provisions of subsection (1)(a) of this section,*

Page 21, line 4, by deleting the word "*a*", and inserting in its place the word, *the,* and by inserting after the word "*assessment*" the words, *provided for in subsection (1)(a) of this section.*

Page 25, line 4, by deleting the word "*Assessments*" and inserting in its place the words, *The assessment,* and by adding after the word "*to*" the words, *subsection (1)(a) of.*

Page 25, line 18, by adding after the word "*carrier*" the words, *or taxpayer.*

line 26, by deleting the word "*assessments*" and inserting in its place the word *assessment;*

Page 26, line 1, by deleting the words "*assessments have*" and inserting in their place the words *assessment has;*

line 2, by inserting after the word "*by*" the following: *subsection (1)(a) of;*

line 3, by deleting the word "*assessments*" and inserting in its place the word *assessment;*

line 4, by deleting the word "*are*" and inserting in its place the word *is;*

line 5, by deleting the word "*assessments*" and inserting in its place the word *assessment.*

Page 83, lines 25 and 26, by deleting lines 25 and 26 in their entirety.

Page 84, lines 1 through 25, by deleting lines 1 through 25 in their entirety, and by renumbering subsequent subsections to conform.

Floor amendment No. 33 to **HB 1**, filed by Senator Friend as follows:

Amend printed copy of GA copy of **HB 1** on page 56, line 26, after the word "*claims,*" to insert the words "*except a claim filed under Section 56 (1)(a) of this Act shall require, at the election of the employe, the filing of two (2) x-ray reports,*"

And on page 99, line 14, after the word "*Notwithstanding*" to insert the following:

"*, except under subsection (a) of this section,*"

Floor amendment No. 35 to **HB 1**, filed by Senator Pearman, as follows:

Amend printed copy of GA copy of **HB 1** on page 35, line 12, after the word "qualifies." to insert the following:

"*One member of the board shall represent employes, one member shall represent business, and one member shall be an attorney.*"

And on page 35, line 12, to place a bracket before the word "The" and to strikethrough the words "The members of the board shall have the";

And on page 35, line 13, to strikethrough the words "qualifications required of" and to delete the words "*appeals court*" and to remove the brackets before and after the word "circuit";

And on page 35, line 14, to insert a bracket after the word "judges" and to strikethrough the word "judges" and to delete the following:

", *except for residence in a district, and shall*";

And on page 35, to delete line 15 in its entirety;

And on page 35, line 16, to delete the words "*standards of conduct*";

And on pages 36 and 37, beginning on line 16, to delete Section 24 in its entirety and to renumber the succeeding Sections and in-text references.

Floor amendment No. 36 to **HB 1**, filed by Senator Travis, as follows:

Amend printed copy of GA copy of **HB 1** on pages 1 through 2, delete Section 1 in its entirety;

And on page 2, delete Section 2 in its entirety;

And on page 2, delete Section 3 in its entirety;

And on pages 9 through 12, delete Section 9 in its entirety;

And on page 12, line 15, delete "*special fund*" and insert in lieu thereof "*subsequent injury fund or to the occupational disease fund as appropriate*";

And on page 15, line 20 through page 16, line 1, delete subsection (6) in its entirety and insert in lieu thereof the following: "*(6) Therefore, it is the intent of the general assembly in imposing the assessment in Sections 72 and 74 of this Act that all employers share in the cost of subsequent injuries and that employers engaged in the severance or processing of coal bear most of the cost of occupational disease.*";

And on page 15, line 24, after "*fund*" insert "*and successor subsequent injury fund and occupational disease fund as provided in this Act*";

And on pages 16-25, delete Section 13 in its entirety;

And on page 25, line 4, delete "*Section 13*" and insert in lieu thereof "*Section 72 and Section 74(7)(b)*";

And on page 26, line 2, delete "*Section 13*" and insert in lieu thereof "*Section 72 and Section 74(7)(b)*";

And on pages 28-29, delete Section 17 in its entirety;

And on pages 37-40, delete Section 25 in its entirety;

And on page 40, delete Section 26 in its entirety;

And on pages 40-41, delete Section 27 in its entirety;

And on pages 41-42, delete Section 29 in its entirety;

And on pages 42-43, delete Section 30 in its entirety;

And on pages 43-45, delete Section 31 in its entirety;

And on pages 45-47, delete Section 32 in its entirety;

And on pages 47-50, delete Section 34 in its entirety;

And on pages 50-53, delete Sections 35 through 39 in their entirety;

And on page 53, line 22, delete "*special*" and insert in lieu thereof "*subsequent injury or occupational disease*";

And on page 53, line 22, after "fund" insert "*as appropriate*";

And on page 54, line 10, delete "*special*" and insert in lieu thereof "*subsequent injury or occupational disease*";

And on page 54, line 11, after "fund" insert "*as appropriate*";

And on page 59, line 15, delete "*commissioner*";

And on page 59, line 16, remove the brackets around and strikes through "[~~board~~]";

And on page 60, line 20, delete "*pre-hearing conference*" and remove the brackets around and strikes through "[~~hearing~~]";

And on page 67, line 5, after "the", insert "*subsequent injury or occupational disease fund as appropriate*" and place brackets around and strike through "special fund";

And on page 67, line 15, after "the", insert "*subsequent injury or occupational disease fund as appropriate*" and place brackets around and strike through "special fund";

And on page 67, line 17, after "the", insert "*subsequent injury or occupational disease fund as appropriate*" and place brackets around and strike through "special fund";

And on page 67, line 20, after "the", insert "*subsequent injury or occupational disease fund as appropriate*" and place brackets around and strike through "special fund";

And on page 67, line 25, after the first "the", insert "*subsequent injury or occupational disease fund as appropriate*" and place brackets around and strike through "special fund";

And on page 67, line 26, delete "*special fund*", and insert in lieu thereof, "*subsequent injury or occupational disease fund as appropriate*";

And on pages 72-74, delete Sections 43-46 in their entirety;

And on page 77, line 21, delete "*special*";

And on page 77, lines 23-25, delete the two references to "*funding commission*" and remove the brackets from and the strikes through the two references to "[~~revenue cabinet~~]";

And on page 78, line 1, delete "*funding commission*" and remove the brackets from and strikes through "[~~revenue cabinet~~]";

And on page 81, lines 12-13, remove the brackets and strikethroughs from the language so bracketed and struck and renumber the subsequent subsections;

And on page 83, delete lines 25 and 26 in their entirety;

And on page 84, delete line 1 through 25 in their entirety, and renumber subsequent subsections accordingly;

And on page 88, delete lines 19 through 23 in their entirety;

And on page 92, line 22, delete "*commissioner*" and remove the brackets from and strikes through "[~~director~~]"

And on page 104 through 105, delete Section 57 in its entirety;

And on page 105 through 106, delete Section 58 in its entirety;

And on pages 106 through 110, delete Sections 59 and 60 in their entirety;

And on pages 114 through 122, delete Sections 63 through 69 in their entirety;

And on pages 122 through 124, delete Section 70 in its entirety;

And on page 124, line 7, delete "*commissioner*" and insert in lieu thereof "*director*";

And on page 124, line 10, delete "*commissioner*" and insert in lieu thereof "*director*";

And on page 124, line 16, delete "*commissioner*" and insert in lieu thereof "*director*";

And on page 124, line 22, delete "*commissioner*" and insert in lieu thereof "*director*";

And on page 124, line 24, delete "*commissioner*" and insert in lieu thereof "*director*";

And on page 124, line 26, delete "*commissioner*" and insert in lieu thereof "*director*";

And on page 125, line 8, delete "*commissioner*" and insert in lieu thereof "*director*";

And on page 126, line 19, delete "*commissioner*" and insert in lieu thereof "*director*";

And on page 126, line 23, delete "*commissioner*" and insert in lieu thereof "*director*";

And on page 127, line 18, delete "*special fund*" and insert in lieu thereof "*subsequent injury fund and occupational disease fund and allocated equally between the two (2) funds*";

And on page 127, after "Section 72." delete the remainder of the page and insert in lieu thereof the following:

"A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) There is created the division of the subsequent injury fund in the department of workers' claims which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund. The division of subsequent injury fund shall be headed by a director appointed by the commissioner, with the prior written approval of the governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) A claimant may in the original application for benefits, or either party may by motion while the case is pending, accompanied by proper allegations and by certification of the fact that a copy of the motion and the entire case file has been forwarded to the subsequent injury fund at the cost of the movant, request the board to and the board shall, or upon its own motion the board may, at any time before the rendition of the final award, cause the subsequent injury fund to be made a party to the proceedings if either or both of the following appears:

(a) The employe is disabled, whether from a compensable injury, occupational disease, pre-existing disease, or otherwise, and has received a subsequent compensable injury by accident;

(b) The employe is found to have a dormant non-disabling disease or condition which was aroused or brought into disabling reality by reason of a subsequent compensable injury by accident.

(3) When the subsequent injury fund has been made a party the board may direct the procedures provided in KRS 342.121.

(4) If it is found that the employe is a person mentioned in paragraphs (a) or (b) of subsection (2) of this section and a subsequent compensable injury has resulted in additional permanent disability so that the degree

of disability caused by the combined disabilities is greater than that which would have resulted from the subsequent injury alone, and the employe is entitled to receive compensation on the basis of the combined disabilities, the employer shall be liable for the payment of all income benefits until the benefits paid have reached a percentage of the full income benefits awarded by the board which is equal to the percentage of disability which would have resulted from the latter injury had there been no pre-existing disability or dormant, but aroused disease or condition.

(5) The remaining compensation for which such resulting condition would entitle the employe, including any compensation for disability resulting from a dormant disease or condition aroused into disabling reality by the injury, shall be paid out of the subsequent injury fund provided for in this section. Such remaining compensation shall be paid directly to the employe under such regulations as the secretary of finance and administration may provide for such purpose.

(6) In making the computation for the apportionment of benefits under this section, the board shall determine the amount of the employe's weekly income benefits and apportion the award between the employer and subsequent injury fund as follows:

(a) For benefits awarded under KRS 342.730(1)(b), the portions shall be based on the number of weeks stated therein;

(b) For all other benefits awarded under this chapter, the portions shall be based on the number of weeks shown in actuarial tables adopted by regulations promulgated by the board.

(7) For the purpose of funding the subsequent injury fund, a subsequent injury fund assessment at the rate of fifteen percent (15%) is hereby imposed upon the amount of workers' compensation premiums received on and after November 1, 1987, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4) and there is hereby imposed on or after November 1, 1987, a subsequent injury fund assessment at the rate of fifteen percent (15%) against the premium as defined in KRS 342.620.

(8) Each employer shall apply the fifteen percent (15%) assessment to his quarterly workers' compensation premium cost, or to his annual premium divided by four (4), and remit the assessment to the revenue cabinet for deposit into the subsequent injury fund. Insurers shall supply statements of premiums paid by employers, and the labor cabinet shall supply similar statements to employers for when premiums are calculated pursuant to KRS 342.620(24) and (25).

(9) The director of the subsequent injury fund shall pay claims out of the fund.

(10) All excess monies shall be transferred to the investment commission created pursuant to KRS 42.500 and the monies shall be invested pursuant to KRS 42.500.

(11) If the secretary of labor determines that the average balance of the subsequent injury fund exceeds one hundred million dollars ($100,000,000) for the year ending December 31, 1988, or any year thereafter, the secretary of labor shall notify the general assembly and the legislative research commission no later than February 15 following the year in which such average balance occurs. Furthermore, the secretary of labor shall suggest a new rate which shall when applied, pay current obligations and keep the average balance within ten percent (10%) of one hundred million dollars ($100,000,000).

(12) If the secretary of labor determines that the average balance of the subsequent injury fund does not exceed one hundred million ($100,000,000) for the year ending December 31, 1995, the secretary of labor shall notify the general assembly and the legislative research commission no later than February 15, 1996. Furthermore, the secretary of labor shall suggest a new rate which shall when applied, cause the average balance of the subsequent injury fund to exceed one hundred million dollars ($100,000,000) for the year ending December 31, 2000.

(13) The general assembly shall adopt or modify the adjustments to the subsequent injury assessment rate which the secretary of labor shall propose as required by the secretary of labor pursuant to subsections (10) and (11) of this section.

(14) Any taxpayer who fails to file required returns or remit the assessment due under this section shall be guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months, or both.

SECTION 73. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

Subsequent injury fund monies shall not:

(1) Be loaned to the Commonwealth or any instrumentality or agency thereof;

(2) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for purposes specifically authorized by this Act;

(3) Be expended for any other purpose than one authorized by this Act.

SECTION 74. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) There is created the division of the occupational disease fund in the department of workers' claims which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund. The division of occupational disease fund shall be headed by a director appointed by the commissioner, with the prior written approval of the governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) A claimant may in the original application for benefits, or either party may by motion while the case is pending, accompanied by proper allegations and by certification of the fact that a copy of the motion and the entire case file has been forwarded to the occupational disease fund at the cost of the movant, request the board to and the board shall, or upon its own motion the board may, at any time before the rendition of the final award, cause the occupational disease fund to be made a party to the proceedings if either or both of the following appears:

(a) The employe is disabled, whether from a compensable injury, occupational disease, pre-existing disease, or otherwise, and has developed an occupational disease;

(b) The employe is found to have a dormant non-disabling disease or condition which was aroused or brought into disabling reality by reason of an occupational disease.

(3) When the occupational disease fund has been made a party the board may direct the procedures provided in KRS 342.121.

(4) If it is found that the employe is a person mentioned in paragraphs (a) or (b) of subsection (2) of this section and an occupational disease has resulted in additional permanent disability so that the degree of disability caused by the combined disabilities is greater than that which would have resulted from the occupational disease alone, and the employe is entitled to receive compensation on the basis of the combined disabilities, the employer shall be liable for the payment of all income benefits until the benefits paid have reached a percentage of the full income benefits awarded by the board which is equal to the percentage of disability which would have resulted from the latter occupational disease had there been no pre-existing disability or dormant, but aroused disease or condition.

(5) The remaining compensation for which such resulting condition would entitle the employe, including any compensation for disability resulting from a dormant disease or condition aroused into disabling reality by the occupational disease, shall be paid out of the occupational disease provided for in this Section. Such remaining compensation shall be paid directly to the employe under such regulations as the secretary of finance and administration may provide for such purpose.

(6) In making the computation for the apportionment of benefits under this section, the board shall determine the amount of the employe's weekly income benefits and apportion the award between the employer and special fund as follows:

(a) For benefits awarded under KRS 342.730(1)(b), the portions shall be based on the number of weeks stated therein;

(b) For all other benefits awarded under this chapter, the portions shall be based on the number of weeks shown in actuarial tables adopted by regulations promulgated by the board.

(7) For the purpose of funding the occupational disease fund:

(a) An assessment is hereby imposed on every taxpayer engaged in severing coal within this Commonwealth at the rate of one dollar ($1.00) per ton of all coal severed during the reporting period, effective for all reporting periods beginning after December 31, 1987. The assessment shall be reported on the same form and paid in the same manner as the tax imposed under the provisions of KRS Chapter 143, but the payment of the assessment shall be made separately from the payment of the tax. The assessment shall be paid to the revenue cabinet, which in turn shall deposit the funds collected to the credit of the occupational disease fund. The terms "coal," "severed," "severing," "taxpayer," "gross value," "reporting period" and "ton," and any other terms applicable to the administration of this paragraph shall mean the same as such terms defined in KRS 143.010. Sections 143.035, 143.040, 143.050, 143.060, 143.070, 143.080, and 143.990, which are applicable to the administration of the provisions of this paragraph, are hereby adopted.

(b) An assessment at the rate of one percent (1%) is hereby imposed upon the amount of workers' compensation premiums received on and after November 1, 1987, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), and there is hereby imposed on and after November 1, 1987, a subsequent injury fund assessment at the rate of one percent (1%) against the premium, as defined in KRS 342.620.

(8) Each employer shall apply the one percent (1%) assessment to his quarterly workers' compensation premium cost, or to his annual premium divided by four (4), and remit the assessment to the revenue cabinet for deposit into the occupational disease fund. Insurers shall supply statements of premiums paid by employers, and the labor cabinet shall supply similar statements to employers for whom premiums are calculated pursuant to KRS 342.620(24) and (25).

(9) The director of the occupational disease fund shall pay claims out of the fund.

(10) All excess monies shall be transferred to the investment commission created pursuant to KRS 42.500, and the monies shall be invested pursuant to KRS 42.500.

(11) If the secretary of labor determines that the average balance of the occupational disease fund exceeds five hundred million dollars ($500,000,000) for the year ending December 31, 1988, or any year thereafter, the secretary of labor shall notify the general assembly and the legislative research commission no later than February 15 following the year in which such average balance occurs. Furthermore, the secretary of labor shall suggest a new rate which shall, when applied, pay current obligations and keep the average balance within ten percent (10%) of five hundred million dollars ($500,000,000).

(12) If the secretary of labor determines that the average balance of the occupational disease fund does not exceed five hundred million dollars ($500,000,000) for the year ending December 31, 1995, the secretary of labor shall notify the general assembly and the legislative research commission no later than February 15, 1996. Furthermore, the secretary of labor shall suggest a new rate which shall, when applied, cause the average balance of the occupational disease fund to exceed five hundred million dollars ($500,000,000) for the year ending December 31, 2000.

(13) The general assembly shall adopt or modify the adjustments to the occupational disease assessment rate which the secretary of labor shall propose as required by the secretary of labor pursuant to subsections (10) and (11) of this section.

(14) Any taxpayer who fails to file required returns or remit the assessments due under this section shall be guilty of a misdemeanor and upon conviction shall be fined an amount not to exceed one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months, or both.

SECTION 75. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

Occupational disease fund monies shall not:

(l) Be loaned to the Commonwealth or any instrumentality or agency thereof;

(2) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for purposes specifically authority by this Act;

(3) Be expended for any other purpose than one authorized by this Act.

SECTION 76. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(l) On the effective date of this section, the secretary of labor shall classify awarded and pending claims against the special fund as either subsequent injury or occupational disease related claims. The obligations represented by the claim classifications shall thereby be transferred to the subsequent injury fund or occupational disease fund, as appropriate.

(2) On the effective date of this section, the current balance of the special fund shall be transferred to the subsequent injury fund and the occupational disease fund. Funds so transferred shall be allocated to either the subsequent injury fund or the occupational disease fund in percentage amounts which reflect the proportion of the dollar amount of claims classified pursuant to subsection (l) of this section and representing the obligations of each fund.

(3) Any amounts due and owing the special fund prior to the effective date of this section which are collected subsequent to the effective date of this section shall be proportionally allocated by the secretary of labor to the subsequent injury fund and occupational disease fund as provided in subsection (2) of this section.

SECTION 77. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) All funds collected by insurance companies from their insureds, prior to the effective date of this section, for assessments of the Kentucky reinsurance association or special fund taxes and assessments of the Kentucky revenue cabinet not previously paid, shall be paid in full by January 1, 1988, to the secretary of labor who shall allocate these taxes and assessments between the subsequent injury fund and the occupational disease fund according to the method set forth in subsections (1) and (2) of Section 76 of this Act.

(2) To ensure compliance with the provisions of subsection (1) of this section, the revenue cabinet shall conduct audits of insurance companies. The costs of such audits shall be borne by the labor cabinet. The revenue cabinet may enter an agreement with the insurance department for assistance in conducting such audits or it may hire additional auditors on a temporary auditors on a temporary basis. The audit shall commence within sixty (60) days from the effective date of this section and shall be completed within six (6)months. The aggregate findings of such audits shall be presented to the secretary of revenue, the commissioner of insurance, the labor cabinet and the governor.

(3) If the audits reveal noncompliance with subsection (1) of this section, the revenue cabinet shall notify the affected pary of such fact. The affected party shall remit the amount in question not later than thirty (30) days following notification and the revenue cabinet shall institute a civil action in Franklin circuit court if remittance is not made within such thirty (30) day period.

(4) The failure of an insurance company to comply with the provisions of this section shall constitute grounds for the revocation by the commissioner of insurance of such entity's authority to write workers' compensation coverage in Commonwealth.

(5) The revenue cabinet shall report to the commissioner of insurance the failure of any insurance company to comply with the provisions of this section and the commissioner shall institute revocation procedures of such entity's authority to write workers' compensation coverage in the Commonwealth. The insurance company may avoid revocation by paying a civil penalty equal to three (3) times the amount willfully withheld.

(6) "Funds collected" as used in subsection (1) of this section shall mean all funds collected without reduction for credits, refund or returns of any type made to insureds or group members after September 1, 1987."

SECTION 78. KRS 42.500 is amended to read as follows:

(1) There shall be a state investment commission composed of the governor who shall be chairman, the state treasurer who shall be vice-chairman and serve as chairman in the absence of the governor, the secretary of the finance and administration cabinet, and two (2) persons appointed by the governor.

(2) The individuals appointed by the governor shall be selected as follows: one (1) to be selected from a list of five (5) submitted to the governor by the Kentucky Bankers Association, and one (1) to be selected from a list of five (5) submitted to the governor by the Independent Community Bankers Association.

(3) The state investment commission shall meet at least quarterly to review investment performance and conduct other business. This provision shall not prohibit the commission from meeting more frequently as the need arises.

(4) Three (3) members of the commission shall constitute a quorum. Any three (3) members of the commission may call a meeting.

(5) The provisions of KRS 61.070 shall not apply to members of the commission.

(6) The commission shall have authority to and may invest any and all surplus funds of the state in direct obligations of the United States government, or of the Commonwealth of Kentucky. All such investments shall be obligations that will mature within five (5) years from the date of investment.

(7) The commission shall also have authority and may, whenever in its opinion the cash in the state treasury is in excess of the amount required to meet current expenditures, invest any and all of said excess cash in United States treasury bills or certificates of indebtedness or any other United States government security which will mature within one (1) year from the date of investment.

(8) The commission shall also have authority and may, whenever in its opinion the cash in the state treasury is in excess of the amount required to meet current expenditures, invest any and all of said excess cash in:

(a) Obligations backed by the full faith and credit of the United States or a U.S. government agency, including but not limited to:

1. U.S. treasury;

2. Export-import bank of the United States;

3. Farmers home administration;

4. Governmental national mortgage corporation; and

5. Merchant marine bonds;

(b) Obligations of any corporation of the U.S. government, including but not limited to:

1. Federal home loan mortgage corporation;

2. Federal farm credit banks;

a. Bank for cooperatives;

b. Federal intermediate credit banks;

c. Federal land banks;

3. Federal home loan banks;

4. Federal national mortgage association; and

5. Tennessee Valley Authority obligations; and

(c) Collateralized certificates of deposit, or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks.

(9) Interest earned from investments made pursuant to this section shall accrue to the credit of the surplus account of the general fund, except that *interest from investments of excess monies in the subsequent injury fund shall be credited to the subsequent injury fund, interest from investments of excess monies in the occupational disease fund shall be credited to the occupational disease fund,* cash in the road fund shall be credited to the surplus account of the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, interest earned from investments of imprest cash funds and funds in the trust and revolving fund for each state public university shall be credited to the appropriate institutional account, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when such donor shall have designated the use to which such interest shall be placed, and interest earned from the investment of moneys appropriated to the capital construction fund and its accounts shall accrue to the capital construction surplus account of the capital construction fund.

(10) The authority granted by this section to the state investment commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

(11) The authority granted by this section to the state investment commission shall only be exercised pursuant to the regulations mandated by KRS 42.525.

(12) Each member of the state investment commission shall post bond for his acts or omissions as a member thereof identical in amount and kind to that posted by the state treasurer.

SECTION 79. The following KRS Sections are repealed:

KRS 342.123 Creation of Kentucky reinsurance association - board of directors - payment of premiums and assessments by subscribers - 342.490 - Board not to incur expense exceeding appropriation. KRS 342.445 Definitions - Insurance carrier to pay tax premiums - KRS 342.450 - Insurance premium tax - Additional assessments - Annual return of insurance carrier - Amount of tax on premiums - KRS 342.455 - Procedure if insurance carrier fails to make return - KRS 342.475 Employer carrying own risk to pay maintenance fund tax - KRS 342.480 - Maintenance fund - Use - Not to lapse - Publication of proceedings. - KRS 342.120 - Creation of a division of special fund - Subsequent injury compensation - Special fund as a party - KRS 342.122 - Definition of "adjusted cost" - special fund tax and assessments - reinsurance of special fund liabilities.

SECTION 80. Whereas, it is necessary that the new eligibility and benefit structure for coal workers' pneumoconiosis apply to all claims in which the date of disability or date of last exposure occurs immediately after the date on which this Act shall become law, an emergency is declared to exist, and the following sections shall become effective upon passage of this Act and approval by the Governor: 4, 5, 7, 10, 12, 14, 15, 16, 21, 28, 41, 48, 49, 50, 51, 52, 54, 55, 56, 71, and 77.

The following sections shall become effective on January 4, 1988: 6, 8, 9, 22, 40, 42, 44, 47, 62, 72, 73, 74, 75, 76, 78, and 79.

Sections 81 of this Act shall become effective sixty (60) days after passage of this Act and approval by the Governor.

SECTION 81. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

As the constitution of the Commonwealth of Kentucky requires that funds collected for a specific purpose by a public entity be expended only for such public purpose, the general assembly does hereby transfer, within sixty (60) days following the effective date of this Act, the liabilities and all funds, records, and property, in the possession of the Kentucky reinsurance association to the subsequent injury fund and occupational disease fund to be allocated according to the method set forth in subsections (1) and (2) of Section 76 of this Act";

And renumber appropriate sections and in text references as necessary;

And on pages 129-130, delete pages 129-130 in their entirety;

On page 5, line 2, to delete the words *"administrative law judge"*;

And on page 5, line 3, to remove the bracket and strikethroughs from the word "board";

And on page 5, line 15, to delete the words *"administrative law judge"*;

And on page 5, line 16, to remove the brackets and strikethroughs from the word "board";

And on page 7, line 1, delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 8, line 10, delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 8, lines 13 through 26, and on page 9, lines 1 through 3, to remove Section 8 in its entirety;

And on page 12, line 14, to delete "*administrative law judge*" and to insert in lieu thereof *"board"*;

And on pages 12, 13, and 14, to remove Section 11 in its entirety;

And on page 26, line 11, to delete the words *"administrative law judge"*;

And on page 26, line 12, to remove the brackets and strikethroughs from the word "board";

And on page 26, line 16, delete the word *"his"*;

And on page 26, line 17, to remove the brackets and strikethroughs from the word "its";

And on page 26, line 18, to delete the word *"his"* and to remove the brackets and strikethroughs from the word "its";

And on page 28, line 5, to delete the words *"administrative law judge"* and to remove the brackets and strikethroughs from the word "board";

And on page 28, line 10, to delete the words *"administrative law judge"* and to remove the brackets and strikethroughs from the word "board";

And on pages 29 and 30 to remove Section 18 in its entirety;

And on page 30, to remove Section 19 in its entirety;

And on pages 30 and 31, to remove Section 20 in its entirety;

And on pages 33 and 34, to remove Section 22 in its entirety;

And on pages 34 through 37, to delete Sections 23 and 24 in their entirety;

And on page 41, line 10, to delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 47, beginning on line 5, by deleting section 33 in its entirety;

On page 53, line 11, to delete "*an administrative law judge*";

On page 53, lines 11 and 12 to remove the brackets and strikethroughs from the words "the board, or any member thereof,";

On page 53, line 13, to delete "*his*";

On page 53, line 13, to remove the brackets and strikethroughs from the word "*its*";

On page 53, lines 17 and 18, to delete "*administrative law judge*";

On page 53, line 18, to remove the brackets and strikethroughs from the word "board";

On page 53, line 21, delete "*administrative law judge*";

On page 53, line 21, to remove the brackets and strikethroughs from the word "board";

On page 53, line 24, to delete "*administrative law judge*";

On page 53, line 24, to remove the brackets and strikethroughs from the word "board";

On page 54, line 1, to delete "*administrative law judge*";

On page 54, line 1, to delete "*his*";

On page 54, line 1, to remove the brackets and strikethroughs from the words "its" and "board";

On page 54, lines 8 and 9, to delete "*administrative law judge's*";

On page 54, line 9, to remove the brackets and strikethroughs from the word "boards";

On page 55, line 17, to delete the words "*by the administrative law judge*";

On page 60, line 16, to delete "*an administrative law judge*";

On page 60, line 17, to remove brackets and strikethroughs from the words "the board";

On page 60, line 19, to delete "*administrative law judge*";

On page 60, line 19, to remove the brackets and strikethroughs from the word "board";

On page 60, line 20, to delete "*pre-hearing conference*";

On page 60, line 20, to remove brackets and strikethroughs from the word "hearing";

On page 60, line 24, to delete the words "*administrative law judge*" and to insert in lieu thereof the word "*board*";

On page 66, lines 3 and 4, to delete the words "*administrative law judge*"; and

On page 66, line 4, to delete the bracket and strikethrough of the word "board";

And on page 68, lines 10 and 11, to delete *"administrative law judge pursuant to the statutes and any administrative regulations"*;

And on page 68, line 11, to remove brackets and strikethroughs from the word "board";

And on page 69, line 2, to delete *"administrative law judge"*;

And on page 69, line 2, to remove the brackets and strikethroughs from the word "board";

And on page 69, lines 6 and 77 to delete *"administrative law judge"*;

And on page 69, line 7, to remove the brackets and strikethroughs from the word "board";

And on page 69, line 16, to delete *"administrative law judge"*;

And on page 69, line 16, to remove the brackets and strikethroughs from the word "board";

And on page 69, line 21, to delete *"administrative law judge"* and to insert in lieu thereof *"board"*;

And on page 69, line 25, to delete *"administrative law judge"* and to insert in lieu thereof *"board"*;

And on page 70, line 4, to delete *"administrative law judge"* and to insert in lieu thereof *"board"*;

And on page 71, line 10, to delete *"administrative law judge"* and to remove the brackets and strikethroughs from the word "board";

And on page 71, line 13, to delete *"administrative law judge"* and to remove the brackets and strikethroughs from the word "board";

And on page 72, line 2, to delete *"administrative law judge"* and to insert in lieu thereof *"board"*;

And on page 72, line 3, to delete *"administrative law judge"* and to insert in lieu thereof *"board"*;

And on page 72, line 8, to delete the words *"the administrative law judge"* and to insert in lieu thereof the word *"board"*;

And on page 90, delete Section 53 in its entirety;

And to renumber the succeeding sections and in text references;

And on page 93, line 26, to delete *"administrative law"*;

And on page 94, line 1, to delete *"judge"*;

And on page 94, line 1, to remove the brackets and strikethroughs from the word "board";

And on page 94, lines 2 and 3, to delete *"administrative law judge"*;

And on page 94, line 3, to remove the brackets and strikethroughs from the word "board";

And on page 94, line 3, to delete *"his"*;

And on page 94, line 3, to remove the brackets and strikethroughs from the word "its";

And on page 94, lines 11 and 12, to delete *"administrative law judge"*;

And on page 94, line 12, to remove the brackets and strikethroughs from the word "board";

And on page 94, line 15, to delete *"administrative law judge"*;

And on page 94, line 15, to remove the brackets and strikethroughs from the word "board";

And on page 94, lines 20 and 21, to delete *"administrative law judge"*;

And on page 94, line 21, to remove the brackets and strikethroughs from the word "board";

And on page 95, line 5, to delete *"administrative law judge"*;

And on page 95, line 5, to remove the brackets and strikethroughs from the words "the board";

And on page 99, line 18 delete *"administrative law judge"* and insert in lieu thereof *"board"*;

And on page 100, line 16 delete *"administrative law judge"* and insert in lieu thereof *"board"*;

And on page 100, line 24 delete *"administrative law judge"* and insert in lieu thereof *"board"*;

And on page 101, line 12 delete *"administrative law judge"* and insert in lieu thereof *"board"*;

And on page 102, line 1 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 102, line 13 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 102, line 21 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 103, line 2 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 103, line 18 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 103, line 21 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on pages 110 through 114, to remove Section 61 in its entirety;

And on page 114, line 9, to delete "*an*" and "*of the administrative law judge*" and to remove the brackets and strikethrough of the word "board";

And on page 125, line 1, to delete "*administrative law*" and to insert in lieu thereof "*hearing officer*"

And on page 125, line 2 to delete "*judge*" and "*administrative law judge*" and to insert in lieu thereof "*hearing officer*";

And on page 125, line 5, to delete the words "*administrative law judge*" and to insert in lieu thereof "*hearing officer*";

And on page 127, line 21, to delete "KRS 342.123 Creation of Kentucky";

And on page 127, to remove lines 22 through 25 in their entirety;

And on page 127, line 26, to remove the word "appropriation.";

And on page 128, to remove lines 1 through 11 in their entirety;

And to renumber the sections and in-text references throughout the bill.

The Chair announced that without objection the rules are suspended for the purpose of introducing resolutions.

Introduction of Bills and Resolutions (Cont.)

SR 12, by Senator Huff: A RESOLUTION urging humanitarian assistance for victims of the war in Afghanistan.

SR 13, by Senators Allen and Clouse: A RESOLUTION honoring Berea College for being named the best small college in the nation by a survey of college and university presidents.

Recess

Senator Wright moved that the Senate recess until 10:00 p.m., for the purpose of receiving floor amendments, and at that time to adjourn until 10:00 a.m., Thursday, October 22, 1987. Agreed.

At the appropriate time the Assistant President Pro Tempore assumed the Chair and called the Senate to order.

The Chair announced that without objection the rules are suspended for the purpose of filing floor amendments.

Announcements (Cont.)

The Clerk reported the following floor amendments have been filed:

Floor amendment No. 37 to **HB 1**, filed by Senator O'Daniel, as follows:

Amend printed copy of **HB 1** on page 6, line 15, by deleting "*the effective date of this Act*" and inserting in lieu thereof "*January 4, 1988*";

And on page 22, line 4, by deleting "*the effective date of this Act*" and inserting in lieu thereof "*passage of this Act and approval by the Governor*";

And on page 36, line 4, by inserting before "the" the following: "*January 4, 1988*" and by striking through and placing a bracket before "the" and on line 5, by striking through "effective date of this" and by deleting "*Act*" and by removing the bracket before "chapter";

And on page 36, line 6, by deleting "*its*" and on line 7 by deleting "*effective date*" and inserting in lieu thereof "*January 4, 1988*";

And on page 56, line 20, by deleting "*the effective*" and on line 21 by deleting "*date of this Act*" and inserting in lieu thereof "*passage of this Act and approval by the Governor*";

And on page 122, line 14, by deleting "*the effective date of this Act*" and inserting in lieu thereof "*passage of this Act and approval by the Governor*";

And on page 123, line 2, by deleting "*the effective date of*" and on line 3 by deleting "*this Act*" and inserting in lieu thereof "*passage of this Act and approval by the Governor*";

And on page 127, line 19, by inserting after "72." the following: "(1)" and by deleting "*On the effective date of this Act*" and inserting in lieu thereof "*Sixty (60) days following the passage of this Act and approval by the Governor*";

And on page 128, line 1, by inserting before "On" the following: "(2)" and by changing "2" to "4";

And on page 130, line 3, by deleting "*On the effective date of this section*" and inserting in lieu thereof "*Sixty (60) days following passage of this Act and approval by the Governor*";

And on page 130, line 21, by deleting "*within*" and on line 22, by deleting "*the effective date of this Act*" and inserting in lieu thereof "*passage of this Act and approval by the Governor*";

And on page 130, by inserting after line 25, the following:

"SECTION 75. Whereas, the unfunded liability of the workers' compensation special fund has a projected unfunded liability of one billion seven hundred million dollars ($1,700,000,000) and the liability of the special fund is increasing at a projected rate of two million dollars ($2,000,000) each week; and

Whereas, the failure to satisfactorily fund the special fund liabilities and the corresponding unpredictability and administrative inefficiency has imposed a substantial burden on the employers of the Commonwealth whose assessments or taxes have heretofore been used to pay the special fund liabilities and costs of administration; and

Whereas, the general assembly recognizes and declares that a streamlined and professional administrative structure is crucial to a successful and efficient workers' compensation program; and

Whereas, the governor of the Commonwealth, in calling the general assembly into extraordinary session for the purpose of solving the workers' compensation problem, has recognized that a crisis exists in workers' compensation, an emergency is declared to exist and the provisions of this Act shall become effective as follows:

(1) The following sections shall become effective upon passage of this Act and approval by the Governor: 4, 5, 7, 10, 12, 13, 14, 15, 16, 21, 24, 28, 41, 48, 49, 50, 51, 52, 54, 55, 56, 61, 63, 64, 65, 66, 67, 68, 69, 70, 71, 73, and 74.

(2) The following sections shall become effective on January 4, 1988: 1, 2, 3, 6, 8, 9, 11, 17, 18, 19, 20, 22, 23, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47, 53, 57, 58, 59, 60, 62, and 72(2).

(3) Section 72(1) shall become effective sixty (60) days after passage of this Act and approval by the Governor."

Floor amendment No. 38 to **HB 1**, filed by Senator O'Daniel, as follows:

Amend printed copy of GA copy of **HB 1** on page 111, to delete lines 22 through 26 in their entirety;

And on page 112, to delete lines 1 through 26 in their entirety;

And on page 113, to delete lines 1 through 26 in their entirety;

And on page 114, to delete lines 1 and 2 in their entirety.

Floor amendment No. 39 to **HB 1**, filed by Senator LeMaster, as follows:

Amend printed copy of GA copy of **HB 1** on page 36, lines 18 through 26 to delete the same;

And on page 36, line 18, to insert "*The governor shall appoint the members of the board on the first Monday in January, 1988.*"

And on page 37, lines 1 through 23, to delete the same.

Floor amendment No. 40 to **HB 1**, filed by Senator LeMaster, as follows:

Amend printed copy of GA copy to **HB 1** on page 39, line 1, after the word "*board*" to insert the following:

"*appointed subsequent to January 4, 1988*"

Floor amendment No. 41 to **HB 1**, filed by Senator O'Daniel, as follows:

Amend printed copy of GA copy of **HB 1** on page 18, line 10, by changing "*subsection*" to "*chapter*";

On page 20, line 14, by deleting "*twentieth (20th)*" and by inserting in lieu thereof "*thirtieth (30th)*";

On page 20, by deleting line 16 in its entirety;

On page 20, line 17, before the "." after "*risk*" by adding the following:

"*and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.*";

And on page 20, line 22, after "*section.*" by adding:

"*Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages in effect at the time the statement of the premium is sent to the insured.*";

On page 41, lines 13 and 14, by deleting "*treating or non-treating*";

On page 44, line 15, by deleting "*hearing*" and by inserting in lieu thereof "*pre-hearing conference*";

On page 46, line 3, by deleting "*schedule*" and by inserting in lieu thereof "*hold a hearing on*";

On page 46, lines 3 and 4, by deleting "*for hearing*";

On page 74, line 14, by bracketing and striking through "it" and by inserting in lieu thereof: "*the board and each administrative law judge*";

On page 77, line 10, by inserting before "*and*" "*with the revenue cabinet,*";

On page 77, line 21, after "*assessments*" by adding "*and other taxes*";

On page 79, line 2, after "*file*" by inserting "*with the revenue cabinet*";

On page 83, line 26, after "*performed*" by inserting "*in the Commonwealth*";

On page 84, line 10, after "*entity*" insert "*in the Commonwealth*";

On page 84, line 15, after "." by adding the following:

"*A business entity engaged in the severance or processing of coal, including but not limited to administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter.*":

On page 84, line 22, by deleting "*act*" and insert in lieu thereof "*business*";

On page 87, line 7, after "*(d)*" by inserting:

"*For November 1, 1987 through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter,*";

On page 100, lines 20 & 22 by deleting "*board*" and inserting in lieu thereof "*administrative law judge*";

On page 100, line 23, after "*appeal*" by adding "*to the board*";

On page 101, line 19, by deleting "*To file a claim under*";

On page 101, by deleting lines 20 through 26 in their entirety;

On page 106, line 20, by deleting the new language;

On page 106, lines 20 and 21 by removing the brackets and strikethroughs;

On page 118, lines 4 and 5, by deleting:

"*provided, however, that such member shall be a resident of Kentucky*".

On page 122, line 14, after the first "," by inserting "*after June 30, 1983 and*"

Adjournment

Senator Wright moved that the Senate adjourn until 10:00 a.m., Thursday, October 22, 1987. Agreed.

THURSDAY, OCTOBER 22, 1987

SEVENTH LEGISLATIVE DAY

The Senate was called to order by Lieutenant Governor Beshear.

Prayer by Dr. Billy Hurt, First Baptist Church, Frankfort, Kentucky.

The roll was called. All Senators present.

Senator Wright moved that the reading of the Journal of October 21, 1987, be dispensed with and the same approved. Agreed.

Motions, Petitions and Communications

Senator Huff moved the adoption of SR 12. Agreed.

SR 12 is as follows:

SR 12, A RESOLUTION urging humanitarian assistance for victims of the war in Afghanistan.

WHEREAS, in 1979 the Soviet Union invaded Afghanistan and has murdered over 1,000,000 Afghan men, women and children in a genocidal war which compares in brutality and in scope to the Nazi Germany Holocaust; and

WHEREAS, Soviet soldiers are scattering bombs disguised as toys, in order to maim children and place a greater burden on the Afghan resistance in transporting children to medical facilities in neighboring Pakistan; and

WHEREAS, the Soviets' war against children and the civilian population of Afghanistan has resulted in the execution of eighty percent of Afghanistan's doctors, the destruction of all hospitals, the poisoning of water and food supplies, and the destruction of valuable farmland and livestock; and

WHEREAS, The Committee for a Free Afghanistan's "Project Wounded" was started in 1984 to provide free medical care for the Afghans whose injuries are too severe to be treated in Pakistan; and

WHEREAS, over 175 Afghan patients have been transported by the United States government to be treated in participating hospitals throughout the United States; and

WHEREAS, nearly 100 Afghan patients have been hospitalized for over a year waiting to come to the United States;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Senate commends Project Wounded for its outstanding efforts to secure medical treatment for the men, women and children victimized by Soviet aggression in Afghanistan.

Section 2. That the Senate urges Kentucky's university-affiliated teaching hospitals, as well as private hospitals, nursing homes and physicians, to extend Kentucky's good will to the people of Afghanistan by reviewing the medical records of those waiting to receive treatment in the United States and volunteering to accept those patients whose injuries they feel most comfortable treating.

Section 3. That the Clerk of the Senate is directed to transmit a copy of this resolution to the Kentucky Medical Association, the Kentucky Hospital Association, the Kentucky Association for Health Care Facilities and to the Committee for a Free Afghanistan.

Senator Allen moved the adoption of SR 13. Agreed.

SR 13 is as follows:

SR 13, A RESOLUTION honoring Berea College for being named the best small college in the nation by a survey of college and university presidents.

WHEREAS, Berea College was named the top small college in the United States by a survey of college and university presidents in a poll recently released by *U.S. News and World Report*; and

WHEREAS, in achieving this recognition, Berea College was praised for its emphasis on liberal arts and moral values and for serving the economic needs of its students; and

WHEREAS, the long-standing goal of Berea College is to serve the Appalachian region and students from low-income families by providing a tuition-free education; and

WHEREAS, each student's room and board expenses are further reduced by the requirement to work within the college's student industries program, instilling in the students a positive work ethic which will carry into their professional careers; and

WHEREAS, Berea College provides this quality education not only through classroom experiences but by teaching the dignity of labor, and the understanding of cultural differences and laying a foundation for strong moral character; and

WHEREAS, it is the institutional commitment to these high ideals that is the basis for Berea College to be held in such high esteem by top educators throughout the nation;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Berea College be honored for its distinction of being selected the top small college in these United States.

Section 2. That in the adoption of this resolution, the Senate does acknowledge the service this institution provides to the Commonwealth of Kentucky, not only for the opportunity it affords our young people, but the positive attention it focuses on higher education efforts in Kentucky.

Section 3. That a copy of this resolution be sent to Dr. John Stephenson, President of Berea College, each member of the Berea College Board of Trustees, Lily Bennett McGinty, President of the Berea College Alumni Association and John Frazer, Executive Director of the Council of Independent Kentucky Colleges and Universities.

Recess

Senator Wright moved that the Senate be in reecess for thirty-five minutes for the purpose of party caucuses. Agreed.

At the appropriate time the President resumed the Chair and called the Senate to order.

Recess

Senator Wright moved that the Senate be in recess for five minutes for the purpose of a meeting of the Committee on Rules at the President's desk. Agreed.

At the appropriate time the President resumed the Chair and called the Senate to order.

The Chair stated that without objection the rules are suspended for the purpose of receiving report of committees.

Report of Committees

The Committee on Rules reported **HB** 1 with Committee Amendments and with floor amendments attached thereto and **HB** 2 have been posted for passage in the Orders of the Day for October 22, 1987.

Orders of the Day

HB 1 with Committee Amendments and with floor amendments attached thereto taken from the Orders of the Day and ordered read at length for the third time. Senator Wright moved that it be read by title only. Agreed by a majority of members elected.

Senator O'Daniel moved that Committee Amendment No. 2 be temporarily passed over. Agreed.

Senator Quinlan moved the adoption of Committee Amendment No. 4 to **HB** 1. Agreed.

Senator O'Daniel moved the adoption of Committee Amendment No. 6 to **HB** 1. Agreed.

Senator O'Daniel moved the adoption of Committee Amendment No. 9 to **HB** 1. Agreed.

Senator O'Daniel moved the adoption of Committee Amendment No. 10 to **HB** 1. Agreed.

Senator Moloney moved the adoption of Committee Amendment No. 11 to **HB** 1. Agreed.

Senator Moloney moved the adoption of Committee Amendment No. 12 to **HB** 1. Agreed.

Senator Moloney moved the adoption of Committee Amendment No. 13 to **HB** 1. Agreed.

Senator Weaver moved the adoption of Committee Amendment No. 15 to **HB** 1. Agreed.

Senator Weaver moved the adoption of Committee Amendment No. 16 to **HB** 1. Agreed.

Senator LeMaster moved the adoption of Committee Amendment No. 20 to **HB** 1. Agreed.

Senator O'Daniel moved that Committee Amendment No. 2 to **HB** 1 be withdrawn from further consideration. Agreed.

Senator Pearman moved the adoption of floor amendment No. 35 to **HB** 1. This motion was defeated and the amendment rejected.

Senator Rogers moved the adoption of floor amendment No. 22 to **HB** 1.

Senator Rogers and Trevey requested a roll call vote on the motion.

Floor Amendment No. 22 to **HB** 1 was defeated by a vote of Yeas 6, Nays 30 and Pass 1.

Yeas: Haering, Rogers, Schmidt, Stuart, Travis, Trevey; Nays: Allen, Bailey, Berger, Bradley, Brinkley, Clouse, Ford, Friend, Garrett, Hall, Higdon, Huff, Kafoglis, Karem, LeMaster, May, McCuiston, Meyer, Moloney, Murphy, O'Daniel, Peniston, Powers, Quinlan, Rose, Saunders, Sexton, Sheehan, Weaver, Wright. Pass: Williams.

Senator O'Daniel moved the adoption of floor amendment No. 37 to **HB** 1. Agreed.

Senator O'Daniel moved the adoption of floor amendment No. 38 to **HB** 1. Agreed.

Senator LeMaster moved the adoption of floor amendment No. 24 to **HB** 1.

Senators LeMaster and Moloney requested a roll call vote on the motion.

Floor amendment No. 24 to **HB** 1 was adopted by a vote of Yeas 22, Nays 15.

Yeas: Allen, Bailey, Bradley, Brinkley, Ford, Friend, Garrett, Haering, Hall, Huff, LeMaster, May, Meyer, Murphy, Pearman, Quinlan, Rogers, Sheehan, Stuart, Travis, Weaver, Williams. Nays: Berger, Clouse, Higdon, Kafoglis, Karem, McCuiston, Moloney, O'Daniel, Peniston, Powers, Rose, Saunders, Schmidt, Trevey, Wright.

Senator Travis moved the adoption of floor amendment No. 36 to **HB 1**.

Senators Travis and Stuart requested a roll call vote on the motion.

Floor amendment No. 36 to **HB 1** was defeated by a vote of Yeas 6, Nays 31.

Yeas: Haering, Schmidt, Stuart, Travis, Trevey, Williams. Nays: Allen, Bailey, Berger, Bradley, Brinkley, Clouse, Ford, Friend, Garrett, Hall, Higdon, Huff, Kafoglis, Karem, LeMaster, May, McCuiston, Meyer, Moloney, Murphy, O'Daniel, Pearman, Peniston, Powers, Quinlan, Rose, Saunders, Sexton, Sheehan, Weaver, Wright.

Senator O'Daniel moved that the rules be suspended for the purpose of filing and considering a floor amendment to **HB 1**. Agreed.

Announcements

The Clerk reported that the following floor amendment has been filed.

Floor amendment No. 42 to **HB 1**, filed by Senator O'Daniel, as follows:

Amend printed copy of GA Copy of HB 1 as follows:

On page 18, line 10, by changing "*subsection*" to "*chapter*";

On page 20, line 14, by deleting "*twentieth (20th)*" and by inserting in lieu thereof "*thirtieth (30th)*";

On page 20, by deleting line 16 in its entirety;

On page 20, line 17, before the "." after "*risk*" by adding the following:

"*and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.*";

And on page 20, line 22, after "*section.*" by adding:

"*Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages in effect at the time the statement of the premium is sent to the insured.*";

On page 41, lines 13 and 14, by deleting "*treating or non-treating*";

On page 44, line 15, by deleting "*hearing*" and by inserting in lieu thereof "*pre-hearing conference*";

On page 46, line 3, by deleting "*schedule*" and by inserting in lieu thereof "*hold a hearing on*";

On page 46, lines 3 and 4, by deleting "*for hearing*";

On page 74, line 14, by bracketing and striking through "it" and by inserting in lieu thereof: "*the board and each administrative law judge*";

On page 77, line 10, by inserting before "*and*" "*with the revenue cabinet,*";

On page 77, line 21, after "*assessments*" by adding "*and other taxes*";

On page 79, line 2, after "*file*" by inserting "*with the revenue cabinet*";

On page 83, line 26, after "*performed*" by inserting "*in the Commonwealth*";

On page 84, line 10, after "*entity*" insert "*in the Commonwealth*";

On page 84, line 15, after "." by adding the following:

"*A business entity engaged in the severance or processing of coal, including but not limited to administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter.*":

On page 84, line 22, by deleting "*act*" and insert in lieu thereof "*business*";

On page 87, line 7, after "*(d)*" by inserting:

"*For November 1, 1987 through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter,*";

On page 100, lines 20 & 22 by deleting "*board*" and inserting in lieu thereof "*administrative law judge*";

On page 100, line 23, after "*appeal*" by adding "*to the board*";

On page 101, line 19, by deleting "*To file a claim under*";

On page 101, by deleting lines 20 through 26 in their entirety;

On page 106, line 20, by deleting the new language;

On page 106, lines 20 and 21 by removing the brackets and strikethroughs;

On page 118, lines 4 and 5, by deleting:

"*provided, however, that such member shall be a resident of Kentucky*".

Orders of the Day (Cont.)

Senator O'Daniel moved that floor amendment No. 41 to **HB 1** be withdrawn from further consideration. Agreed.

Senator O'Daniel moved the adoption of floor amendment No. 42 to **HB 1**. Agreed.

Senator Friend moved the adoption of floor amendment No. 31 to **HB 1**. This motion was defeated and floor amendment No. 31 was rejected.

Senator Friend moved that floor amendments No. 29, No. 30 and No. 32 to **HB 1** be withdrawn from further consideration. Agreed.

Senator Trevey moved that floor amendment No. 28 to **HB 1** be withdrawn from further consideration. Agreed.

The Chair stated that without objection floor amendments No. 21, No. 23, No. 25, No. 26, No. 27, No. 33, No. 39 and No. 40 to **HB 1** will be withdrawn from further consideration.

Senator O'Daniel moved that **HB 1**, as amended, be placed on passage. Agreed.

HB 1, as amended, was passed and the title agreed to by a vote of Yeas 29, Nays 9.

Yeas: Allen, Bradley, Brinkley, Clouse, Ford, Garrett, Haering, Hall, Higdon, Kafoglis, Karem, McCuiston, Meyer, Moloney, Murphy, O'Daniel, Pearman, Peniston, Powers, Quinlan, Rose, Saunders, Schmidt, Sheehan, Stuart, Trevey, Weaver, Williams, Wright. Nays: Bailey, Berger, Friend, Huff, LeMaster, May, Rogers, Sexton, Travis.

HB 2 taken from the Orders of the Day and ordered read at length for the third time. Senator Wright moved that it be read by title only. Agreed by a majority of members elected.

Senator Wright moved that **HB 2** be placed on passage. Agreed.

HB 2 was passed and the title agreed to by a vote of Yeas 34, Nays 2.

Announcements (Cont.)

Senator Kafoglis moved that the rules be suspended for the purpose of introducing and considering resolutions. Agreed.

Introduction of Bills and Resolutions

SR 14, by Senators Kafoglis and Allen: A RESOLUTION honoring Kentucky "Teacher of the Year," Brenda Hare McGown.

Senator Kafoglis moved the adoption of **SR 14**. Agreed.

SR 14 is as follows:

SR 14, A RESOLUTION honoring Kentucky "Teacher of the Year," Brenda Hare McGown.

WHEREAS, Mrs. McGown has for more than sixteen years demonstrated an unwavering dedication to the educational development of the students at Warren East High School; and

WHEREAS, Mrs. McGown is an ideal teacher who has spurred the interest of her students in mathematics as a discipline and in its practical application as exemplified by her instrumental role in developing a computer lab and computer programming courses at Warren East High School; and

WHEREAS, Mrs. McGown values the self-worth of her students and so gears her teaching methods to accommodate the individual differences and varying degrees of motivation, skills, and ability of her students; and

WHEREAS, Mrs. McGown has been selected 1987 Kentucky Teacher of the Year by the Department of Education; and

WHEREAS, Mrs. McGown will ably represent the Commonwealth in the National Teacher of the Year competition;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Mrs. Brenda Hare McGown be commended and recognized as Kentucky Teacher of the Year.

Section 2. That a copy of this resolution be sent to Mrs. McGown, Governor Martha Layne Collins, Superintendent of Public Instruction, Alice McDonald, and Robert Gover, Superintendent of Warren County Schools.

SCR 15, by Senator Wright: A CONCURRENT RESOLUTION relating to adjournment of the 1987 Extraordinary Session of the General Assembly.

Senator Wright moved the adoption of SCR 15. Agreed.

SCR 15 is as follows:

SCR 15, A CONCURRENT RESOLUTION relating to adjournment of the 1987 Extraordinary Session of the General Assembly.

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That when the Senate and the House of Representatives adjourn on October 22, 1987, they do so to convene again in regular session on Tuesday, January 5, 1988.

Recess

Senator Wright moved that the Senate be in recess until 6:00 p.m. Agreed.

At the appropriate time the President resumed the Chair and called the Senate to order.

Recess

Senator Wright moved that the Senate be in recess until 8:30 p.m. Agreed.

At the appropriate time the President resumed the Chair and called the Senate to order.

House Message

Announcing return of HB 1 with letter attached thereto.

Announcements

The Chair stated that without objection the rules are suspended for the purpose of returning, at the request of the House of Representatives, HB 1 together with amendments and all communications from the House concerning concurrence and non-concurrence to the House of Representatives.

The Chair stated the Senate will stand at ease.

At the appropriate time the President resumed the Chair and called the Senate to order.

Recess

Senator Wright moved that the Senate be in recess for twenty minutes for the purpose of party caucuses. Agreed.

House Message

Announcing return of HB 1 with letters attached thereto.

Recess

The Senate recessed for twenty minutes.

At the appropriate time the President resumed the Chair and called the Senate to order.

Senator Pearman moved that the rules be suspended for the purpose of introducing and considering a resolution. Agreed.

Introduction of Bills and Resolutions (Cont.)

SR 16, by Senator Pearman: A RESOLUTION adjourning the Senate in honor of David M. Owsley.

Senator Pearman moved the adoption of **SR 16**. Agreed.

SR 16 is as follows:

SR 16, A RESOLUTION adjourning the Senate in honor of David M. Owsley.

WHEREAS, David M. Owsley, Hardin Circuit Clerk and public servant for a quarter century, was struck down in a tractor accident Tuesday; and

WHEREAS, David Owsley, a public-minded servant, has filled many posts in Hardin County since 1962, including deputy sheriff, sheriff, magistrate, and circuit court clerk, and was unopposed in the upcoming election for a second term as clerk; and

WHEREAS, David Owsley was well thought of and highly respected by all who knew him, not only as a hardworking and competent official, but as a warm and friendly person; and

WHEREAS, those fortunate enough to have known and worked with David Owsley will sorely miss his wise counsel, friendly assistance and cheerful cooperation;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Senate does hereby express its utter sense of loss and bereavement upon the sudden and tragic death of David M. Owsley, and does extend heartfelt sympathy to his family.

Section 2. That when the Senate adjourns on Thursday, October 22, 1987, it does so in loving memory of David M. Owsley.

Section 3. That a copy of this resolution be sent to the family of David Owsley in Cecilia, Kentucky.

Orders of the Day

HB 1 with letters attached thereto ordered taken from the Orders of the Day.

Senator O'Daniel moved that the Senate recede from floor amendment No. 38 to **HB 1**. Agreed.

Senator O'Daniel moved that the Senate recede from floor amendment No. 24 to **HB 1**. Agreed.

Senator O'Daniel moved that the Senate recede from Committee Amendment No. 15 to **HB 1**.

Senators Rogers and Schmidt requested a roll call vote on the motion to recede.

Committee Amendment No. 15 was receded from by the Senate by a vote of Yeas 23, Nays 13.

Yeas: Berger, Brinkley, Clouse, Ford, Garrett, Hall, Higdon, Kafoglis, Karem, McCuiston, Meyer, Moloney, Murphy, O'Daniel, Pearman, Peniston, Powers, Quinlan, Rose, Saunders, Sheehan, Weaver, Wright. Nays: Allen, Bradley, Friend, Haering, Huff, LeMaster, Rogers, Schmidt, Sexton, Stuart, Travis, Trevey, Williams.

Senator O'Daniel moved that **HB 1**, as amended, but without floor amendments Nos. 38 and 24 and Committee Amendment No. 15 be placed on passage. Agreed.

HB 1, as amended, was passed and the title agreed to by a vote of Yeas 29, Nays 7.

Yeas: Allen, Bradley, Brinkley, Clouse, Ford, Garrett, Haering, Hall, Higdon, Kafoglis, Karem, McCuiston, Meyer, Moloney, Murphy, O'Daniel, Pearman, Peniston, Powers, Quinlan, Rose, Saunders, Schmidt, Sheehan, Stuart, Trevey, Weaver, Williams, Wright. Nays: Berger, Friend, Huff, LeMaster, Rogers, Sexton, Travis.

Recess

Senator Wright moved that the Senate stand at ease, to reconvene for the purpose of receiving messages from the House of Representatives and report from the Committee on Enrollment. Agreed.

At the appropriate time the President resumed the Chair and called the Senate to order.

Report on Enrolled Bills and Resolutions

Committee on Enrollment reported that **HB 1** and **HB 2** have been examined and found correctly enrolled. Said bills read at length, compared and signed in open session by the President at 11:57 - 11:58 p.m. Ordered delivered to the House.

The Journal of the Senate was read, compared and approved by the Senate.

Senator Wright moved that the Senate adjourn until January 5, 1988, or until the Governor may call an Extraordinary Session. Agreed.

APPROVED: Stephen L. Beshear
President of the Senate

ATTEST: Marjorie Wagoner
Chief Clerk of the Senate

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(Numbers refer to page of Senate Journal.
The text of a resolution is given on first reading or adoption.
Joint resolutions are designated SJR; concurrent resolutions are designated SCR:)

		Introduced	Referred	Reported	Readings 1st	Readings 2nd	Readings 3rd	Sub. or Amend	Voting	House Message	Concur Activities	Enrolled	Other Action
SR	1	3							3				
SR	2	3							3				
SR	3	3							4				
SR	4	11							11				
SR	5	12							12				
SR	6	54							54				
SR	7	52							52				
SR	8	54							55				
SR	9	54							57				
SR	10	54							58				59
SR	11	59							59				
SR	12	90							94				
SR	13	90							95				
SR	14	99							99				
SCR	15	99							100				
SR	16	101							101				

HISTORY OF HOUSE BILLS

(Numbers refer to page of Senate Journal. The text of a bill is given on first reading.)

		House Message	Referred	Reported	Readings 1st	Readings 2nd	Readings 3rd	Sub. or Amend	Voting	Concur Activities	Enrolled	Other Action
HB	1	13	13	13	14	54	96	61 62 63 64 71 72 73 75 76 77 78 91 92 97	98 101	100 101	102	13 59 61 96 100
HB	2	13	13	13	52	54	99		99		102	13 96

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JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

Extraordinary Session of 1987

Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1987, and
in the One Hundred and Ninety-Sixth
Year of the Commonwealth

Begun on the Fourteenth Day of October, 1987, and Adjourned
on the Twenty-second Day of October, 1987

Paid for from state funds.

FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Sections 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes,* the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This volume represents the fulfillment of this obligation for the House of Representatives of the Extraordinary Session of 1987.

The text of a bill is spread in full when it receives a first reading. The roll call on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended.

Mrs. Shan Stone Gray and Mrs. Jeanne Wallace prepared the House Journal for the Extraordinary Session of 1987. The edited copy and index in this volume reflect the cooperative efforts of the Commission's staff.

VIC HELLARD, JR.
Director

The Capitol
Frankfort, Kentucky

JOURNAL

OF THE

HOUSE OF REPRESENTATIVES

OF THE

GENERAL ASSEMBLY

OF THE

COMMONWEALTH OF KENTUCKY

EXTRAORDINARY SESSION OF 1987

WEDNESDAY, OCTOBER 14, 1987

FIRST LEGISLATIVE DAY

At an Extraordinary Session of the General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on October 14, 1987, the one hundred and ninety-sixth year of the Commonwealth, in compliance with a Proclamation issued by the Governor of the Commonwealth of Kentucky, the Honorable Martha Layne Collins, the House of Representatives was called to order by the Honorable Donald J. Blandford, Speaker of the House of Representatives.

Invocation by the Frankfort Community Choir.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Stumbo moved that the Journal show that members elected by Special Election, Representative Mae Turner Hoover and Representative Jack Will, have produced certificates of election and that these certificates be confirmed. Agreed.

The Speaker announced that the House membership had been duly sworn and was ready to conduct business.

Introduction of Resolutions.

HR 1, by Representatives Blandford and Stumbo: A RESOLUTION adopting the Rules to govern the proceedings of the 1987 Extraordinary Session of the House of Representatives.

HR 2, by Representatives Blandford and Stumbo: A RESOLUTION extending an invitation to the pastors of the Frankfort churches to open sessions of the House of Representatives with prayer.

HR 3, by Representatives Blandford and Stumbo: A RESOLUTION directing appointment of a committee to wait upon the Governor.

The Speaker announced the appointment of the following committee to wait upon the Governor: Representative Long, Chairman; Representatives White, Hancock and Allen.

Representative Stumbo moved that the rules be suspended for the purpose of acting upon resolutions. Agreed.

Representative Stumbo moved the adoption of the following **HR 1**:

HR 1, A RESOLUTION adopting Rules to govern the proceedings of the 1987 Extraordinary Session of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That, except as provided in Sections 2 and 3 of this resolution, the Rules adopted by the House of Representatives to govern the Regular Session of 1986 be adopted to govern the Extraordinary Session of 1987.

Section 2. That Rule 49 of the Rules of the House of Representatives be amended to read as follows:

Rule 49. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chairman, or the committee by majority vote in a regularly called meeting, shall post [~~at least three calendar days prior to their consideration~~] the bills and resolutions to be considered by the committee at its next meeting *and no* [~~provided that no bill or resolution shall be posted by the chairman or the committee by a majority vote unless and until a request for posting form has been filed with the committee chairman or secretary and approved as containing satisfactory information by the committee chairman. No~~] measure shall be considered except those posted. A list of the measures to be considered shall be filed with the Clerk [~~at least three calendar days~~] prior to the meeting. [~~Effective with the regular session of 1988, in the case of prefiled bills receiving a favorable expression from the interim joint committee to which they were assigned, posting by the chairman or the committee shall occur during the first week of the session, and such bills shall be considered by the appropriate committee during the first three weeks of the session. No posting request shall be required for such prefiled bills. This rule does not apply to bills with a fiscal impact of more than $20,000.~~]

Section 3. That Rule 51 of the Rules of the House of Representatives be amended to read as follows:

Rule 51. Introduction of Bills. Bills and resolutions may be introduced by filing them with the Bill Introduction Clerk in her office at any time the same is open. Bills and resolutions introduced by filing them with the Bill Introduction Clerk after the House has concluded Item 4, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The Bill Introduction Clerk shall number bills in the order received and transmit a copy immediately after introduction on the House floor to the Committee on Committees for reference to committee. [~~No bill or resolution having the force of law shall be introduced after the thirty-eighth legislative day of the session. The last two legislative days preceding the veto recess shall be reserved by the House exclusively for the business of concurring in amended House Bills.~~]

HR 1 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 2**:

HR 2, A RESOLUTION extending an invitation to the pastors of the Frankfort churches to open sessions of the House of Representatives with prayer.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the Sergeant at Arms be directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House of Representatives and open the sessions thereof with prayer.

HR 2 was adopted by voice vote.

Representative Stumbo moved the adoption of the following **HR 3**:

HR 3, A RESOLUTION directing appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Speaker appoint a committee of this House to join a like committee from the Senate to wait upon the Governor and inform her that the General Assembly is prepared to receive any message she may care to deliver.

HR 3 was adopted by voice vote.

The Clerk read the following Proclamation:

PROCLAMATION

by

MARTHA LAYNE COLLINS

GOVERNOR

of the

COMMONWEALTH OF KENTUCKY

To All To Whom These Presents Shall Come:

Pursuant to the power vested in me by Section 80 of the Constitution of Kentucky, I, Martha Layne Collins, Governor of the Commonwealth of Kentucky, finding that an emergency does exist, do issue this, my proclamation, convening the General Assembly of Kentucky in Extraordinary Session at the Seat of Government, Frankfort, Kentucky, at 4:00 p.m. (EDT), Wednesday, October 14, 1987, for the sole purpose of considering the following subjects relating to Workers' Compensation:

(1) Amending KRS Chapters 336, 342, and 351 as follows:

(a) Establishing a three-member full-time independent Workers' Compensation Board possessing the qualifications of appellate judges and appointed by the Governor; establishing terms of office and duties of Board; and providing for a transition period;

(b) Providing for the administration of the Department of Workers' Claims by the Workers' Compensation Board through a Commissioner employed by the Board;

(c) Permitting the Workers' Compensation Board to employ administrative law judges having the qualifications of circuit judges;

(d) Specifying administrative law judges' powers and duties, including pre-hearing conferences; rendering final decisions, orders, and awards; ordering rehabilitation prior to an award; and approving fees for attorneys, physicians, and hospitals;

(e) Providing for the appeal of the administrative law judges' decisions to the Workers' Compensation Board;

(f) Providing for the appeal of the Workers' Compensation Board's decisions to the Court of Appeals subject to Supreme Court rules;

(g) Requiring the Workers' Compensation Board to adopt a medical fee schedule on or before July 1, 1988;

(h) Requiring the adoption and use of the Kentucky tables (if available) in the most recent edition of the U.S. decennial life tables in the calculation and apportionment of benefits;

(i) Permitting reopening of coal-related occupational pneumoconiosis awards while requiring credit for benefits previously awarded;

(j) Prohibiting discrimination based upon a diagnosis of coal-related occupational pneumoconiosis and providing civil remedies;

(k) Waiving physician-patient or chiropractor-patient privilege in Workers' Compensation cases;

(l) Limiting medical testimony and allowing direct medical testimony through written medical reports;

(m) Permitting reopening and review of cases based on a change in occupational disability;

(n) Requiring Workers' Compensation coverage for all working partners of partnerships and all partners in the coal mining and construction industries;

(o) Establishing payment methods and procedures for attorneys' fees and providing for attorneys' fees in reopenings;

(p) Equalizing survivor benefits in unrelated death cases to those paid in related death cases;

(q) Establishing penalties for violations of KRS Chapter 342;

(r) Transferring Division of Special Fund from Department of Workers' Claims to Department of Workplace Standards in the Labor Cabinet.

(2) Enacting legislation requiring an apportionment of 50% to the employer and 50% to the Special Fund in Workers' Compensation back and heart cases.

(3) Enacting legislation transferring the Uninsured Employers Fund Division, its assets and liabilities to the Office of General Counsel within the Office of the Secretary, Labor Cabinet.

(4) Enacting legislation establishing eligibility standards, apportionment, and a new benefit structure for coal-related occupational pneumoconiosis.

(5) Enacting legislation creating a Workers' Compensation Advisory Council.

(6) Enacting legislation to implement a plan to fund and pre-fund the liabilities of the Special Fund, the operation and administration of the Special Fund, and certain other programs in the Labor Cabinet, without the use of General Fund monies; creating the Workers' Compensation funding commission to replace the Kentucky Reinsurance Association to perform functions relating to the funding plan and transferring the assets and liabilities of the Association to the Commission.

(7) Providing for the enactment of conforming amendments and allowing for reorganization as necessary.

(8) Repealing various provisions of the Kentucky Revised Statutes as necessary to implement the provisions of this proclamation.

DONE AT THE CAPITOL, in the City of Frankfort, this the 7th day of October in the year of our Lord One Thousand Nine Hundred and Eighty-seven and in the year of the Commonwealth the One Hundred Ninety-sixth.

s/MARTHA LAYNE COLLINS, GOVERNOR

Commonwealth of Kentucky

s/DREXELL R. DAVIS

Secretary of State

Recess

Representative Stumbo moved that the House recess until 5:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the privilege of the floor be granted to the constitutional officers and invited guests. Agreed.

The Committee appointed to wait upon the Governor reported that the Governor was ready to address the Joint Session.

The Honorable Steven L. Beshear, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, and the members of the Senate entered upon the floor of the House.

Representative Stumbo moved that the House and Senate now resolve into Joint Session. Agreed.

The Speaker introduced the Honorable Steven L. Beshear, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, who assumed the Chair and called the Joint Session to order.

Joint Session

Representative Stumbo moved to dispense with a call of the roll. Agreed.

Invocation by Dr. Donald Nunnelly, First Christian Church, Frankfort.

The Chief Doorkeeper announced the arrival of the Governor.

The Committee of the House, appointed to join with a like Committee of the Senate to wait upon the Governor and escort her to the House Chamber to address the Joint Session, appeared with the Governor.

The Honorable Steven L. Beshear introduced the Honorable Martha Layne Collins, Governor of the Commonwealth of Kentucky.

Governor Collins addressed the Joint Session of the General Assembly as follows:

"I have called this Extraordinary Session to ensure Kentucky's continued progress. Our aim is more jobs. Our means is the reform of workers' compensation. Our standard is fairness. Fairness to the working men and women of Kentucky. Fairness to our employers. Fairness to all our taxpayers. And the plans now before us offer the possibility of achieving a fair balance among the legitimate concerns and interests of labor, the coal industry, other business and the people of Kentucky.

To underscore the importance of a sound workers' compensation system for preserving and creating jobs let me offer these examples from my own recent experience.

Last summer, Kentucky was on the verge of losing a major employer because of our system. In fact, had my administration not blocked the proposed assessments by the Kentucky Reinsurance Association I am confident that employer would have left the state. But we were able to preserve those jobs by signalling our concern about the system and our intention to correct its deficiencies.

As to the importance of the system for creating new jobs, we have currently reached the stage in negotiations with two industries where workers' compensation is a key consideration in whether they will locate in Kentucky. What we do in this Session will weigh heavily in their decision.

These are not isolated examples. The system has been of growing concern to our existing industries and to those considering locating here.

Our journey to this Session began almost two years ago when the General Assembly—recognizing the threat posed by the system—asked that I establish the Governor's Task Force on Workers' Compensation. The Task Force worked for more than a year gathering information and analyzing specific aspects of the problem.

I drew heavily on its recommendations in devising my own plan. Other plans emerged. The coal industry offered a proposal. So did the House and Senate.

A tremendous amount of work and thought has gone into trying to resolve a problem that has been building for forty years through administration after administration. We're still working. The problem is as complex as any that has ever faced this state's leadership.

It goes to heart of how prosperous we might become. But our challenge goes beyond improving Kentucky's business climate. A better environment for business cannot be the sole measure of what we do here. For the problem also goes to the heart of justice for men and women injured or disabled on the job. So we are working to forge a solution that will create a better business climate without sacrificing justice.

From the several proposals offered and from the ensuing public debate has emerged a consensus that has brought us together for this Special Session. I heartily commend your cooperation and your participation in the process.

And since today marks the last time I will address a session such as this I want to commend the General Assembly for your cooperation throughout the past four years and for your contribution to Kentucky's progress. Your role in this regard has been of such magnitude and of such historical consequence that I must offer more than a passing comment.

Four years ago when I first addressed a joint session of the House and Senate it was becoming widely recognized that the Legislature had evolved into a partner in governing the Commonwealth. And during my term what we have accomplished together has demonstrated that point conclusively. More important for the future of this Commonwealth our accomplishments have demonstrated this partnership in a manner that skeptics thought unlikely, if not impossible.

In fact, you and I could write a manual on executive-legislative relationships. We've struck a balance. We've avoided the excesses of executive dominance or executive inattention.

The budget process—the very heart of policymaking—is today a joint effort. The Legislature and Executive respect each others constitutional role.

We have worked together as well as any others before us. Certainly, the General Assembly has played an active role in crafting legislation to chart a new course for Kentucky.

Our historic Education Improvement Package was a landmark in the history of Kentucky's growth. Through that package you and I launched a new tradition of excellence in education, a tradition that will serve well our children and grandchildren.

That was more than two years ago. Today, your unflagging commitment to those reforms is an asset to the people of Kentucky. Our reforms are a tool for progress. They have already spurred economic growth. They will continue to assist in the creation of still more jobs and other opportunities. Moreover, these reforms are a measure of the roll this Legislature has to play in shaping Kentucky's future.

Those who benefit most from this working partnership between the Legislature and the Chief Executive are the people of Kentucky. And for that reason I am confident the partnership will continue to grow.

Just as you were a full partner in formulating an education package you have been a full partner in bringing us toward the reform of workers' compensation.

The two issues are related. For just as better education is a key to greater prosperity so is the reform of workers' compensation. We improve our schools so we can prosper more fully in a Global Economy. We reform workers' compensation to preserve existing jobs and to remove any liability that would make it more difficult to create new jobs.

My Task Force recommendations provide the basis for major and effective reform. The recommendations affecting the benefit structure and administration of the program remain the core of a sound solution. Other measures will address the long-term problem of the unfunded liability.

To improve the business climate we want to provide predictable and affordable assessments. As we do so, we also want to meet our responsibility to those injured or disabled in the workplace.

My Task Force's recommendations leave unchanged the benefits to the men and women already drawing them. Future benefits will remain the most generous in America.

The Governor's Task Force recommendations provide safeguards against a recurrence of the problems troubling workers' compensation today. In particular I want to point out the transformation in how the program will be administered.

My Task Force recommendations bring order to what is now a fragmented, inefficient and costly system of administration. Today, administration is spread among private insurance companies, self-insured groups, state cabinets and non-budget entities. No one adequately monitors the program to make sure funding and awards are in line with one another. In fact, it cannot be monitored in its current state because the program cannot be properly audited. In this Session, we will set out workers' compensation program on the right course.

Four years ago we found ourselves confronted by the problems caused by a recession that had pushed tens of thousands of Kentuckians out of work and stretched the state budget to the limit. We found ourselves with an educational system inadequate to the demands of a new technological age of information and communications.

This General Assembly was equal to those challenges.

And together, you and I and the people of Kentucky have created a powerful momentum for more progress in the years ahead. It is momentum that has Kentucky on the move in education and in providing new jobs and opportunities.

Because of our education package, we have a record amount of school construction underway or planned and many of you have seen that progress firsthand. The Representative from the 59th District joined me in breaking ground this past summer for a new high school in Oldham County. The Representatives from the 73rd and 84th Districts and the Senator from Clark County and I broke ground for a new middle school in Powell County just a few months ago. And some $200 million more in construction will give young people throughout Kentucky a better environment in which to learn.

We'll be beginning construction in coming months for a new junior high in Laurel County and an elementary school in Knox County. An elementary school addition in Fulton County and a new elementary school in Gallatin County will soon be finished.

In all . . . our bonds have helped fund new schools . . . additions . . . or renovations in 70 counties.

And construction is going on in higher education as well. Only a few hours ago we broke ground in Madisonville for a new auditorium that will be used not only by the college but by the community as well. Mr. Speaker, together this summer, we broke ground for a community college in Owensboro. The Representative from the 95th District was there last month when we broke ground for a new building at Prestonsburg Community College. And so were the Senators from Knott and Johnson. We recently broke ground for a new learning resource center at Hazard Community College.

We've seen a record number of new jobs created this past four years. And we're breaking ground, dedicating new plants or announcing expansions almost daily now around the state. The Representative from the 21st District was with me in Bowling Green in September when we announced 100 new jobs at Bando Chemical. Others of you joined me at Allison Abrasives in Lancaster, H. B. Fuller in Paducah, Columbus Showcase in Jackson, Foster Grant in Somerset, Excel in Fulton, Shelburne Garment in Springfield, Technotrim in Maysville, Worldmark in Hawesville, Sealmaster in Morehead. These and other projects throughout Kentucky manifest our new spirit of progress.

People are noticing Kentucky as never before, not just nationally, but internationally, and we're prepared to make the most of it.

Four years ago not many of our towns, communities or counties had anyone devoting most of their time to recruiting industry. Today, to name a few, Winchester, Todd County, Ohio County, Hopkinsville, Lebanon, Richmond, London, Pikeville, Carrollton and Mt. Sterling—all of these communities now have a professional whose time is dedicated to economic development.

That's what I mean when I say Kentucky's on the move.

Last week in Louisville at the invitation of my administration 106 communities gathered to tell corporate executives from around America and around the world what they have to offer.

All this is evidence that jobs are getting more attention than they've ever gotten before. We're in the thick of the competition. And we've proven we can compete not only with other states but with other nations.

All this is genuine progress. We've made a difference for Kentucky. And we've paved the way for still further progress.

More than bricks and mortar, however, more than this physical evidence of our progress, it is the spirit of our people that gives me the greatest hope for a better future.

There's a new attitude in Kentucky. It's a new optimism about what individuals can accomplish, about what Kentucky can become and about what it takes to get there.

People everywhere around Kentucky recognize more fully than ever the importance of education. We've stressed literacy programs as never before. And they are enabling thousands of men and women to lead fuller lives. It is a pool of potential and talent that has been lost to us in the past. Today, it is contributing to a better Kentucky.

And consider what's happening in higher education. In the face of expected decreases, enrollment is actually up at most of our community colleges and universities: 4.5 percent at Eastern, 4 percent at Northern Kentucky, 5 percent at Murray, 8 percent at Morehead, 9 percent at Western and 10 percent at the University of Kentucky, including 15 percent at the community colleges.

In these increases and in our literacy programs, it's clear that more people are doing what it takes to build for the future and to make better lives for themselves and their families. In the process, they're building a better Kentucky.

Nowhere is this new spirit more pronounced than in our GED programs. And no story better captures this new spirit than that of Denver and Arna Barrett of Clay County. Denver and Arna were working for Mid South Electric Company when the plant burned. When the decision was made to rebuild the plant as a high-tech facility the Barretts enrolled in the company's training program and began working on their GEDs.

They studied together and looked forward to receiving their diplomas together. But when graduation day came Arna was in the hospital recovering from the premature birth of their first child, a little boy. Nevertheless, they were determined to graduate together.

And that afternoon Denver checked Arna and the baby, Denver Dwayne, out of the hospital so they could go to the ceremony. They arrived about halfway through the graduation. Their fellow graduates were concerned about Arna and the baby but they understood—perhaps more than most of us could—why the Barretts were there that day. These people and their spirit, that's why I'm optimistic.

If Denver and Arna and their classmates were one isolated success story I would not be so optimistic. But they're not. Today, Kentucky leads America in new GED graduates. We're number one in the percentage increase in adults earning their GED. For a state where the drop-out rate has long burdened us this is a tremendous turn around. And if we maintain this trend it will be one of the most profound improvements in our workforce this state has ever experienced.

It speaks volumes about the spirit of our people, about their determination and about their belief in a better future. And it is another reason why building on our momentum is so vital.

We have this state moving. We must keep it moving. We owe it to every GED graduate, to every young person enrolled in college, to every boy and girl in school, to every man or woman looking for a job, to every citizen of this Commonwealth.

If Kentucky is to conquer the economic problems that have characterized the state's history, its leaders must look beyond expedient solutions that address only the needs of the moment to the enduring gains that ensure a better future. Governors, every elected official, must have the vision and the courage to look beyond their own term. From the first day I took office I committed myself to that approach. And during this administration, we've made some difficult decisions that were necessary to turn around an economy whose traditional strengths could not sustain us as they have in the past.

I've wanted to build a solid foundation on which you and other leaders can build still further. Our Education Improvement Package is part of that stronger foundation. So are our gains in providing jobs. A lasting solution for workers' compensation is another.

Left unchanged or dealt with only in patchwork fashion our current system threatens our many advances.

Yes, we've launched a new tradition of excellence in education. But that tradition should not have to overcome the burden of a system that could drive out jobs and opportunities.

Yes, a record number of jobs has been created in Kentucky in the past four years. But we will not have created enough jobs until every Kentuckian who wants one has one.

Here in this session we intend to position Kentucky more favorably for creating these jobs.

We will reform workers' compensation. We will reform it fairly. We will fuel Kentucky's drive toward a more prosperous future. ''

Representative Stumbo moved that the Joint Session of the House and Senate be dissolved. Agreed.

The Speaker resumed the Chair.

Introduction of Bills

HB 1, by Representatives Rapier, Blandford, Ark, Burch, Callahan, P. Clark, Crupper, Cyrus, Farrow, Gregory, Guenthner, Hancock, Hatcher, Hourigan, Kerr, Long, Moberly, Priddy, Richards, B. Richardson, P. Richardson, B. Smith, Worthington, and Yates: AN ACT relating to workers' compensation.

HB 2, by Representatives Blandford, Rapier, and Richards: AN ACT making an appropriation to the Legislative Research Commission for expenses incurred in connection with the Extraordinary Session of 1987 of the General Assembly, and declaring an emergency.

Recess

Representative Stumbo moved that the House recess for a meeting of the Committee on Committees. Agreed.

The Speaker resumed the Chair.

Reference of Bills

The Clerk reported the Committee on Committees has referred the following Bills:

Labor and Industry: **HB 1**.

Appropriations and Revenue: **HB 2**.

Motions, Petitions and Communications

The Committee on Committees announced the following membership changes since the 1987 Organizational Session:

Banking and Insurance: Appointed—Representatives Jim Callahan, Rex Smith; Removed—Representative Butch Burnette.

Cities: Appointed—Representatives Lindy Casebier, Mae Hoover, Kenny Rapier.

Energy: Appointed—Representative Jack Will; Removed—Representative Rex Smith.

Health and Welfare: Appointed—Representatives Ernesto Scorsone, A. G.Pritchett; Removed—Representative Butch Burnette.

Judiciary-Civil: Appointed—Representatives Butch Burnette, Mae Hoover, Jody Richards, Charlie Siler; Removed—Representatives Jim Callahan, Lindy Casebier.

Judiciary-Criminal: Appointed—Representative Butch Burnette; Removed—Representatives A. G. Pritchett, Kenny Rapier.

Labor and Industry: Appointed—Representative Jack Will; Removed—Representative Ernesto Scorsone.

Representative Stumbo moved that the rules be suspended for the purpose of Posting of Bills for Consideration. Agreed.

Posting of Bills for Consideration

The Clerk announced the following Bills have been posted for committee consideration:

Appropriations and Revenue: **HB 2.**

Labor and Industry: **HB 1.**

Recess

Representative Stumbo moved that the House recess for a meeting of the Committee on Labor and Industry for the purpose of reporting **HB 1** out of committee for a first reading today, with the understanding that **HB 1** be recommitted on Thursday, October 15, 1987 to the Committee on Labor and Industry. Agreed.

The Speaker resumed the Chair.

Announcements

The following meetings were announced:

Committee on Appropriations and Revenue: 3:00 p.m., Thursday, October 15, 1987.

Committee on Labor and Industry: 7:30 p.m., today, Room 109, to reconvene 9:00 a.m., Thursday, October 15, 1987.

Minority Caucus: 30 minutes before session, October 15, 1987, Room 104.

The Clerk announced an election contest was filed contesting the election of Representative Mae Hoover. Pursuant to Section 38 of the Constitution and KRS 120.215, the Speaker drew by lot a committee to hear the challenge. The Speaker announced the following members of the Committee: Representatives Seum, B. Richardson, Arnold, Clarke, Adkins, Adams, Burnette, McBee, and Hourigan. The members are to meet on adjournment to elect a Chairman and establish procedures. The members of the empaneled board were sworn in at their desks.

Representative Stumbo moved that the rules be suspended for Report of Committees. Agreed.

Report of Committees

The Committee on Labor and Industry reported **HB 1** without expression of opinion. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 336.015 is amended to read as follows:

(1) There is hereby created a cabinet of state government to be named the labor cabinet. The cabinet shall be headed by a secretary who shall be appointed by the governor pursuant to KRS 12.040. The secretary shall have the duties, responsibilities, power and authority relating to labor, wages and hours, occupational safety and health of employes, child labor, [~~workers' compensation,~~] apprenticeship, and all other matters *except workers' compensation* heretofore under the jurisdiction of the commissioner and department of labor.

(2) The labor cabinet shall consist of the offices of the secretary, general counsel, administrative services and labor-management relations, and the departments of workplace standards and of workers' claims. The *commissioner* [~~commissioners~~] of the *department of workplace standards* [~~departments~~] within the labor cabinet shall be under the direction and control of the secretary of the labor cabinet.

(3) The secretary may appoint such personnel, including an ombudsman, as are necessary to perform the duties of the cabinet *provided, however, the secretary of labor may not appoint personnel necessary to perform the functions in the department of workers' claims.*

Section 2. KRS 336.020 is amended to read as follows:

(1) The department *of workplace standards* shall be headed by a commissioner, and shall be divided for administrative purposes into the divisions of employment standards and mediations; occupational safety and health compliance; [~~and~~] education and training for occupational safety and health*; and special fund.*

(2) The department of workers' claims shall be administered by a workers' compensation board, through a commissioner.

SECTION 3. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The department of workers' claims shall be responsible for administering claims and ensuring compliance with the insurance, self-insurance and rehabilitation provisions in this chapter. The department shall be headed by a commissioner hired by the board, who shall be responsible for overseeing the administration of claims and the administration of the insurance, self-insurance and rehabilitation provisions of this chapter.

Section 4. KRS 342.012 is amended to read as follows:

(1) For the purposes of this chapter an owner or owners of a business, including *non-working* partners of a partnership owning a business *not engaged in construction work or in the severance or processing of coal,* whether or not employing any other person to perform a service for hire, shall be included within the meaning of the term employe if such owner, owners, or *non-working* partners elect to come under the provisions of this chapter and provide the insurance required thereunder. Nothing in this section shall be construed to limit the responsibilities of such owners or partners to provide coverage for their employes *and working partners,* if any, required under this chapter.

(2) When an owner, owners or *non-working* partners have elected to be included as employes such shall be accomplished by the issuance of an appropriate endorsement to a workmen's compensation insurance policy.

(3) The optional coverage of non-working partners of a partnership authorized in subsection one (1) of this section shall not apply to partnerships owning a business engaged in construction work or in the severance or processing of coal as defined in KRS 342.620.

Section 5. KRS 342.020 is amended to read as follows:

(1) In addition to all other compensation provided in this chapter, the employer shall pay for the cure and relief from the effects of an injury or occupational disease such medical, surgical and hospital treatment, including nursing, medical and surgical supplies and appliances, as may reasonably be required at the time of the injury and thereafter during disability, or as may be required for the cure and treatment of an occupational disease. The employe may select the physician to treat his injury, and the hospital in which he shall be treated.

(2) When a compensable injury or occupational disease results in the amputation of an arm, leg or foot, or the loss of hearing, or the enucleation of an eye or loss of teeth, the employer shall initially pay for in addition to the other medical, surgical and hospital treatment enumerated in subsections (1) and (2) of this section, a modern artificial member and where required, proper braces.

(3) Upon motion of the employer, with sufficient notice to the employe for a response to be filed, if it is shown to the satisfaction of the *administrative law judge* [~~board~~] by affidavits or testimony that because of the physician selected by the employe to treat his injury or disease, or because of the hospital selected by the employe in which he is being treated, that the employe is not receiving proper medical treatment and his recovery is being substantially affected or delayed; or that the funds for his medical expenses are being spent without reasonable benefit to the employe; or that because of the physician selected by the employe or because of the type of medical treatment being received by the employe that the employer will substantially be prejudiced in any compensation proceedings resulting from the employe's injury or disease; then the *administrative law judge* [~~board~~] may allow the employer to select a physician to treat the employe and the hospital or hospitals in which the employe is treated for his injury or disease. No action shall be brought against any employer subject to this chapter by any person to recover damages for malpractice or improper treatment received by any employe from any physician, hospital or attendant thereof.

(4) An employe who reports an injury alleged to be work-related or files an application for adjustment of a claim waives any physician-patient or chiropractor-patient privilege with respect to any condition or complaint reasonably related to the condition for which the employe claims compensation. Notwithstanding any other provision in the Kentucky revised statutes, any physician, chiropractor, podiatrist, hospital or health care provider shall, within a reasonable time after written request by the employe, employer, workers' compensation insurer, special fund, uninsured employers' fund, or the administrative law judge, provide the requesting party with any information or written material reasonably related to any injury for which the employe claims compensation.

Section 6. KRS 342.035 is amended to read as follows:

(1) *Within one hundred eighty (180) days following the effective date of this Act, the board shall promulgate administrative regulations to adopt a schedule of fees for the purpose of ensuring that* all fees and charges under KRS 342.020 shall be fair and reasonable[~~, shall be subject to regulation by the board~~] and shall be limited to such charges as are reasonable for similar treatment of injured persons of a like standard of living in the same community and where such treatment is paid for by the injured person himself. In determining what fees are reasonable, the board may also consider the increased security of payment afforded by this chapter.

(2) The employe, employer, self-insured employer or carrier shall not be liable for the payment of fees or charges in excess of those authorized pursuant to this section.

(3)[~~(2)~~] Where such requirements are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting it. No compensation shall be payable for the death or disability of an employe if his death is caused, or if and insofar as his disability is aggravated, caused or continued, by an unreasonable failure to submit to or follow any competent surgical treatment or medical aid or advice.

Section 7. KRS 342.040 is amended to read as follows:

(1) Except as provided in KRS 342.020 no compensation shall be payable for the first seven days of disability unless disability continues for a period of more than two weeks in which case compensation shall be allowed from the first day of disability. All compensation shall be payable on the regular pay day of the employer, commencing with the first regular pay day after seven days after the injury or disability resulting from an occupational disease, with interest at the rate of twelve percent (12%) per annum on each installment from the time it is due until paid. In no event shall income benefits be instituted later than the 15th day after the employer has knowledge of the disability or death. Benefits shall be due and payable not less often than semimonthly. If the employer should terminate, or fail to make payments when due, the employer shall notify the board of such termination or failure to make payments and the board shall, in writing, advise the employe or known dependent of right to prosecute a claim under this chapter.

(2) All retraining incentive benefits awarded pursuant to Section 57 of this Act shall be payable on the regular pay day of the employer, commencing with the second regular pay day after the award of the retraining incentive benefit by the administrative law judge becomes final. Retraining incentive benefits shall be due and payable not less often than semimonthly.

Section 8. KRS 342.090 is amended to read as follows:

Payment of death benefits in good faith, to a supposed dependent or to a dependent subsequent in right to

another or other dependents shall protect and discharge the employer and insurer unless and until the lawful dependent or dependents prior in right have given the employer or insurer written notice of his or their claim. In case the employer or insurer is in doubt as to who are dependents or as to their respective rights, the *administrative law judge* [~~board~~] shall, on application, decide and direct to whom payment shall be made, and payment made under such direction shall release the employer and insurer from all liability. If an appeal is taken from the order of the *administrative law judge* [~~board~~] directing payment, persons receiving payment under such order shall furnish bond for the protection of adverse claimants pending the outcome of the proceedings.

Section 9. KRS 342.120 is amended to read as follows:

(1) There is created the division of the special fund in the department of *workplace standards* [~~workers' claims~~] which shall be responsible for the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund. The division of special fund shall be headed by a director appointed by the commissioner, with the prior written approval of the governor pursuant to KRS 12.050. The director shall be responsible for overseeing the administration of the legal representation of the fund and the maintenance of records regarding the payment of claims by the fund.

(2) A claimant may in the original application for benefits, or either party may by motion while the case is pending, accompanied by proper allegations and by certification of the fact that a copy of the motion and the entire case file has been forwarded to the special fund at the cost of the movant, request the *administrative law judge* [~~board~~] to and the *administrative law judge* [~~board~~] shall, or upon *his* [~~its~~] own motion the *administrative law judge* [~~board~~] may, at any time before the rendition of the final award, cause the special fund to be made a party to the proceedings if either or both of the following appears:

(a) The employe is disabled, whether from a compensable injury, occupational disease, pre-existing disease, or otherwise, and has received a subsequent compensable injury by accident, or has developed an occupational disease;

(b) The employe is found to have a dormant non-disabling disease or condition which was aroused or brought into disabling reality by reason of a subsequent compensable injury by accident or an occupational disease.

(3) When the special fund has been made a party the *administrative law judge* [~~board~~] may direct the procedures provided in KRS 342.121.

(4) If it is found that the employe is a person mentioned in paragraphs (a) or (b) of subsection (2) of this section and a subsequent compensable injury or occupational disease has resulted in additional permanent disability so that the degree of disability caused by the combined disabilities is greater than that which would have resulted from the subsequent injury or occupational disease alone, and the employe is entitled to receive compensation on the basis of the combined disabilities, the employer shall be liable for the payment of all income benefits until the benefits paid have reached a percentage of the full income benefits awarded by the *administrative law judge* [~~board~~] which is equal to the percentage of disability which would have resulted from the latter injury or occupational disease had there been no pre-existing disability or dormant, but aroused disease or condition.

(5) The remaining compensation for which such resulting condition would entitle the employe, including any compensation for disability resulting from a dormant disease or condition aroused into disabling reality by the injury or occupational disease, shall be paid out of the special fund provided for in KRS 342.122. Such remaining compensation shall be paid directly to the employe under such regulations as the secretary of finance and administration may provide for such purpose.

(6) In making the computation for the apportionment of benefits under this section, the *administrative law judge* [~~board~~] shall determine the amount of the employe's weekly income benefits and apportion the award between the employer and special fund as follows:

(a) For benefits awarded under KRS 342.730(1)(b), the portions shall be based on the number of weeks stated therein;

(b) For all other benefits awarded under this chapter, *except retraining incentive benefits awarded pursuant to Section 57 of this Act,* the portions shall be based on the *life expectancies contained in the overall male or*

female mortality tables [~~number of weeks shown~~] in *the most recent available edition of the U.S. decennial life tables. If the most recent edition of the U.S. decennial life tables includes Kentucky tables, these tables shall be used. If it does not, the national tables shall be used* [~~actuarial tables adopted by regulations promulgated by the board~~].

SECTION 10. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

An award for income benefits for total or partial disability under this chapter based, in whole or in part, on a pre-existing disease or pre-existing condition of the back, or of the heart shall be apportioned, by the administrative law judge, fifty percent (50%) to the employer and fifty percent (50%) to the special fund. Apportionment required by this section shall not be a cause of appeal.

Section 11. KRS 342.121 is amended to read as follows:

(1) If on a claim for compensation for disability resulting from a subsequent injury by accident or occupational disease any medical question shall be in controversy, or a determination thereof necessary to the proper apportionment of liability therefor, the *administrative law judge* [~~board~~], acting on a proper motion from any interested party, may refer the case to a physician appointed by *him* [~~it~~] for the purpose of investigating and reporting to *him* [~~the board~~] on the medical questions involved. The physician shall make his report to the *administrative law judge* [~~workers' compensation board~~] in writing with respect to all medical questions at issue or necessary to the apportionment of disability between the subsequent injury and in the prior existing disability at the time of employment. The report shall show the date of prior disablement or latent, nondisabling disease, or condition, which, if in dispute, shall be deemed a medical question.

(2) The physician appointed as provided in subsection (1) of this section shall be allowed necessary traveling expenses and reasonable fees, to be fixed by the *administrative law judge* [~~board~~] to each physician for making such examination and report, plus a reasonable allowance for expenses incurred in making such examination. The *administrative law judge* [~~board~~] may also allow traveling expenses to the employe. Such fees and expenses so approved by the *administrative law judge* [~~board~~] shall be paid by the requesting party.

(3) The physician shall, as soon as practicable after he has completed his consideration of the case, but not later than fifteen (15) days after the examination of the employe, report in writing his findings on every medical question in controversy. The physician shall also include in his report a statement indicating the physician or physicians, if any, who appeared before him, and what, if any medical reports and X-rays were considered by him.

(4) The *administrative law judge* [~~board~~] may consider the report of the physician along with the other evidence in the case in arriving at *his* [~~its~~] decision or award, and any party in interest may take the deposition of the physician to be used as evidence in the case.

(5) The provisions of this section shall apply only to persons mentioned in KRS 342.120.

SECTION 12. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly finds and declares that the estimated projected unfunded liability of the workers' compensation special fund is one billion seven hundred million dollars ($1,700,000,000).

(2) The general assembly finds and declares that approximately seventy-eight percent (78%) of the total liability of the special fund over a five (5) year period ending in July, 1987, is attributable to employers who are engaged in the severance or processing of coal.

(3) The general assembly finds and declares that more than ninety-five percent (95%) of the total liability of the special fund for occupational disease is attributable to benefits awarded for coal workers' pneumoconiosis (black lung) claims to employes of employers engaged in the severance or processing of coal.

(4) The general assembly further finds and declares that approximately thirty percent (30%) of the total liability of the special fund for traumatic injuries is attributable to benefits awarded to employes of employers who are engaged in the severance or processing of coal; and

(5) The general assembly hereby finds and declares that the failure to satisfactorily fund the special fund liabilities or to make other satisfactory arrangements, and the corresponding unpredictability and inefficiency

has imposed, and continues to impose, a substantial burden on employers of the Commonwealth whose assessments or taxes have heretofore been used to pay the special fund liabilities, and that if the burden on employers is allowed to continue unmitigated, there will be a resulting increase in unemployment and an out-migration of employers from the Commonwealth, and new employers will be discouraged from locating in the Commonwealth.

(6) Therefore, it is the intent of the general assembly in imposing the additional assessment required in paragraph (b) of subsection (1) of Section 13 of this Act to more nearly equate the level of assessment to the level of liabilities of the special fund and thus, the additional burden of assessment must rest upon employers engaged in the severance or processing of coal, as defined in KRS 342.620.

Section 13. KRS 342.122 is amended to read as follows:

(1) *(a)* [~~"Adjusted cost" as used in this section and in KRS 342.475 means all liability incurred for compensation, hospital and medical benefits to be paid pursuant to this chapter, except that any employer defined in KRS 342.630(2) may compute "adjusted cost" on the basis of benefits paid rather than liability incurred. "Adjusted cost" for all employers shall include an additional factor of twelve percent (12%) of such total liabilities or benefits paid. Each self-insured group and each employer carrying his own risk shall annually furnish payroll data and other information required to calculate "adjusted cost" to the revenue cabinet.~~

~~(2) In addition to the taxes and assessments imposed by KRS 342.450 and 342.475,~~] *For the purpose of funding and pre-funding the liabilities of the special fund, financing the administration and operation of the division of special fund, financing the administration and operation of the Kentucky workers' compensation funding commission, and, financing the expenditures for all programs in the labor cabinet except the division of employment standards and mediation and the office of labor-management relations, as reflected in the enacted budget of the commonwealth enacted by the general assembly,* a special fund *assessment* [~~tax~~] at the rate of [~~three-fourths (3/4%) of one percent (1%)~~] *twenty-three and three-tenths percent (23.3%)* [~~of~~] *is hereby imposed upon* the amount of *workers' compensation* premiums received [~~shall be paid~~] *on and after November 1, 1987,* by every insurance carrier *writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4)* [~~as defined in KRS 342.445, subject to the credits therein set out,~~] and *there is hereby imposed on and after November 1, 1987 a special fund assessment at the rate of twenty-three and three-tenths percent (23.3%)* [~~the revenue cabinet shall assess~~] against the [~~"adjusted cost"~~] *premium, as defined in KRS 342.620* of every employer carrying his own risk. [~~a special fund tax computed by taking three-fourths (3/4) of one percent (1%) of the "adjusted cost" determined as provided in KRS 342.475. The provisions of KRS 342.450, 342.455, 342.460, 342.465, and 342.470 shall, so far as applicable, also apply to the levy and collection of such additional tax of three-fourths (3/4) of one percent (1%) of such premiums of insurance carriers.~~]

(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional special fund assessment at the rate of forty percent (40%) is hereby imposed upon the amount of workers' compensation premiums received on and after November 1, 1987, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after November 1, 1987 an additional assessment at the rate of forty percent (40%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his own risk. The assessments imposed in this subsection shall be in lieu of all other assessments or taxes on such premiums.

(2) (a) On January 31, 1988, the funding commission shall determine the amount of funds produced from the special fund assessments imposed in subsection (1) of this section. If the funding commission determines that the special fund assessment rates imposed in subsection (1) of this section will produce more or less than a total of one hundred and ten million dollars ($110,000,000) during each year of a two-year period beginning April 1, 1988, the funding commission shall notify the general assembly not later than February 15, 1988 of such fact. At the time of such notification, the funding commission shall recommend adjustments to the assessment rates imposed in subsection (1) of this section, to ensure that seventy million dollars ($70,000,000) shall be produced from the assessment rate imposed in paragraph (a) of subsection (1) of this section and forty million dollars ($40,000,000) shall be produced from the assessment rate imposed in paragraph (b) of subsection (1) of this section.

(b) The general assembly shall adopt or modify the adjustments to the special fund assessment rates proposed by the funding commission. If the proposed rates are adopted or modified such rates shall become

effective on April 1, 1988 and shall remain in effect until April 1, 1990 unless modified by the general assembly during the regular legislative session commencing in January, 1990.

(c) On or before October 1, 1989 and on or before October 1 of each odd-numbered year thereafter, the funding commission shall determine whether adjustments are necessary in the special fund assessment rates imposed in subsection (1) of this section. If the funding commission determines that adjustments are necessary, it shall report its recommendations by October 31 of such odd-numbered year to the governor and the appropriations and revenue committee of the general assembly. If the general assembly, in the regular legislative session, adopts or modifies the proposed adjusted assessment rates, such proposed adjusted assessment rates shall become effective on April 1 of that year.

(3) All [~~taxes and~~] assessments imposed by [~~subsection (2) of~~] this section shall be paid *to the Kentucky workers' compensation funding commission* [~~into the state treasury~~] and shall be credited to the *benefit reserve fund within the Kentucky workers' compensation funding commission.* [~~special fund and the Kentucky reinsurance association and shall be used only for awards of compensation made by the board and chargeable against the special fund, expenses of legal representation thereof, fees, expenses of the physicians in connection therewith, and expenses in connection with reinsurance obtained for the special fund and shall be withdrawn for that purpose under the supervision of the secretary of finance and administration.~~]

(4) *Such assessments shall be paid quarterly not later than the twentieth (20th) day of the month following the end of the quarter in which the premium is received. Such due date shall also apply to assessments owed by employers carrying their own risk.*

(5) The assessments herein imposed may be collected by the insurance carrier from his insured, provided however, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section.

(6) The funding commission, as part of the collection and auditing of the special fund assessments required herein, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each such employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employes, provided however, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The division of unemployment insurance is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(7) Each self-insured employer, group self-insurer or insurance carrier shall provide any information and submit any reports the revenue cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(8) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. Such registry shall be established within ninety (90) days of the effective date of this Act for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund. [~~Any sum remaining in the special fund at the end of any fiscal year shall be set up by the finance and administration cabinet to the credit of such fund for the next ensuing fiscal year.~~

[~~(5) (a) For liabilities for injuries and occupational diseases incurred on or after July 1, 1983:~~

~~1. If on an annual review of the special fund the secretary of finance and administration finds that the special fund tax to be levied pursuant to this section may be insufficient to pay prospective amounts which may be awarded under the special fund provisions, he shall advise the Kentucky reinsurance association in writing of such fact and shall further request and give specifications for the association to make a proposal for reinsuring the liabilities of the special fund and for distributing the cost of such reinsurance to the subscribers of the association. The proposal will contain a total cost for such reinsurance, including the administrative costs of making benefit payments and collecting premiums from subscribers. The total cost of reinsurance shall be distributed among the subscribers based on the "adjusted cost" of every subscriber unless the proposal sets~~

~~forth another basis of cost distribution that the secretary of finance and administration finds to be more equitable than "adjusted cost."~~

~~2. The secretary of finance and administration shall then advertise for bids from qualified bidders for reinsurance of the liabilities of the special fund as set out in the proposal of the Kentucky reinsurance association.~~

~~3. If no other qualified bidder offers an arrangement more advantageous than that proposed by the Kentucky reinsurance association, the secretary shall enter an agreement for reinsurance of the special fund liabilities with the association as specified in the original written request. If another qualified bidder makes a bid more advantageous according to criteria established in the specifications, the secretary shall enter an agreement with such bidder for reinsurance of the special fund liabilities.~~

~~(b) For liabilities for injuries and occupational diseases incurred before July 1, 1983:~~

~~1. The secretary of finance and administration and the secretary of labor may determine whether such liabilities could be reinsured or otherwise transferred to the Kentucky reinsurance association in a manner calculated to minimize the costs of such liabilities and the processing of payments in connection therewith.~~

~~2. If the secretary of finance and administration and the secretary of labor find that the special fund tax to be levied pursuant to this section is insufficient to pay such claims, they shall advise the secretary of revenue in writing of such fact. The secretary of revenue may then levy additional assessments against all insurance companies writing workers' compensation insurance in Kentucky, all self-insurance groups operating under this chapter, and every employer carrying his own risk. The amount of each assessment shall be in the proportion that each assessment payer's "adjusted cost" bears to the total "adjusted cost" of all assessment payers.~~

~~(6) Except for a two percent (2%) collection fee allowance, all moneys charged the insured for assessments and taxes under this chapter and KRS Chapter 136 shall be paid into the state treasury and credited to the appropriate fund for which said assessment or tax is charged. In no case shall the moneys turned over be less than ninety-eight percent (98%) of the moneys charged.]~~

(9)[~~(7)~~] The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as herein set out and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

SECTION 14. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

Assessments levied pursuant to Section 13 of this Act and unpaid on the date on which they are due and payable shall bear interest at the rate specified in KRS 131.183 plus a penalty of one and one-half percent (1 1/2%) per month from the date such assessment was due and payable.

SECTION 15. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Every insurance carrier shall be entitled to a refund or credited with assessments paid on all cancelled or returned premiums, including dividends paid or credited to policyholders.

(2) The assessments paid pursuant to the provisions of this chapter shall be refunded or credited in the manner provided in KRS 134.580, provided that the claim for refund or credit is made by the carrier within four (4) years of the due date of the return or the date the assessments were paid, whichever is later.

(3) A claim for refund or credit shall be made on a form prescribed by the funding commission and shall contain such information as the funding commission may require.

(4) No insurance carrier shall be entitled to a refund or credit of the assessments paid pursuant to the provisions of this chapter where the assessments have been collected from an employer as provided by Section 13 of this Act, unless the amount of assessments collected from the employer are refunded to him by the insurance carrier who paid the assessments to the funding commission.

Section 16. KRS 342.125 is amended to read as follows:

(1) Upon its own motion or upon the application of any party [~~interested~~] and a showing of change of *occupational disability* [~~conditions~~], mistake or fraud or newly discovered evidence, the *administrative law judge* [~~board~~] may at any time *reopen and* review any award or order, *except as provided in subsection (2) of this section*, ending, diminishing or increasing the compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke *his* [~~its~~] previous order, sending immediately to the parties a copy of *his* [~~its~~] subsequent order or award. *Reopening and* review under this section shall be had upon notice to the parties [~~interested~~] and in the same manner as provided for an initial proceeding hereunder but shall not affect the previous order or award as to any sums already paid thereunder. [~~However,~~] The employer shall not suspend the payment of benefits during the pendency of any reopening procedures.

(2) *(a) Upon the application of the affected employe, and a showing of progression of his previously diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to such pneumoconiosis, the administrative law judge may review an award of a retraining incentive benefit because of such diagnosis, and upon a finding of respiratory impairment due to such pneumoconiosis shall make an award for benefits as provided in Section 57 of this Act. Such a reopening may also occur upon a showing of progression of respiratory impairment in a claim for which benefits were previously awarded under the provisions of Section 57 of this Act. An application for review under this subsection shall be made within one (1) year of the date the employe knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.*

(b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits previously awarded and, if applicable, also by the amount of income benefits previously awarded under Section 57 of this Act. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.

(3) Where an agreement has become an award by approval of the *administrative law judge* [~~board~~], and a *reopening and* review of such an award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the *administrative law judge* [~~board~~] as an admission against the interests of any party. The parties may raise any issue upon *reopening and* review of this type of award which could have been considered upon an original application for benefits.

Section 17. KRS 342.143 is amended to read as follows:

For the purposes of this chapter the average weekly wage of the state shall be determined by the *commissioner* [~~director~~] as follows: On or before September 1 of each year, the total wages reported by subject employers under the Kentucky unemployment insurance law for the preceding calendar year shall be divided by the average monthly number of insured workers (determined by dividing the total number of insured workers reported for the preceding year by twelve (12)). The average annual wage thus obtained shall be divided by fifty-two (52) and the average weekly wage thus determined rounded to the nearest cent. Such average weekly wage shall be certified to the *commissioner* [~~director~~] by the department for human resources in a manner prescribed by the *workers'* [~~workmen's~~] compensation board by regulation. The average weekly wage as so determined shall be applicable for the full period during which income or death benefits are payable, when the date of occurrence of injury or of disablement in the case of disease, or of death, falls within the calendar year commencing January 1 following the September 1 determination. Whenever a change in the average weekly wage of the state is of such amount that the minimum weekly income benefits for total disability or for death are increased or decreased by one dollar ($1.00) or more, or the maximum weekly income benefits for total disability or for death are increased or decreased by two dollars ($2.00) or more, computed in each case and rounded to the nearest dollar, an adjustment in those minimums or maximums which are affected in the requisite amount by the change in the average weekly wage of the state shall be made which will reflect this increase or decrease, but no change in such limitations shall otherwise be made.

Section 18. KRS 342.150 is amended to read as follows:

Whenever compensation has been paid for not less than six months, thereafter, on the application of all parties in any case where the *administrative law judge* [~~board~~] determines that it will be for the best interests of all parties and will not subject the employer or his insurer to an undue risk of overpayment, future payments of compensation or any part thereof may be commuted to a lump sum of an amount which will equal the total

sum of the probable future payments so commuted, discounted at four percent true discount compounded annually on each payment. Upon payment of such lump sum all liability for the payments therein commuted shall cease.

Section 19. KRS 342.155 is amended to read as follows:

Whenever the *administrative law judge* [~~board~~] considers it expedient, any lump sum which is paid as provided in KRS 342.150 hereof shall be paid to any suitable person appointed by the district court of the county of the residence of the injured employe or of his dependents as trustee to administer or apply the same for the benefit of the person or persons entitled thereto. The receipt of such trustee for the amount so paid to him shall discharge the employer and his insurer. Except as otherwise herein specifically provided, the manner of qualification and the rights, duties and liabilities of *the* [~~such~~] trustee shall be determined by the general laws of this state.

Section 20. KRS 342.160 is amended to read as follows:

(1) The benefits in case of death shall be paid to [~~such~~] one or more dependents of the deceased employe for the benefit of all the dependents entitled thereto, as [~~are~~] determined by the *administrative law judge* [~~board~~]. The dependents to whom payments are made shall apply the same to the use of the persons entitled thereto under this chapter, according to their respective claims on the deceased for support. The compensation of a mentally disabled person shall be paid to his guardian or conservator.

(2) If the dependents are a widow, widower or other head of a family of minor children and one or more minor children, it shall be sufficient for the widow, widower or head of the family to make application for compensation on behalf of all. Where the dependents are mentally incapacitated or are minors the head of whose family is not a dependent, the application may be made by the guardian, conservator or next friend of such dependents.

Section 21. KRS 342.197 is amended to read as follows:

(1) No employe shall be harassed, coerced, discharged, or discriminated against in any manner whatsoever for filing and pursuing a lawful claim under this chapter.

(2) It is unlawful practice for an employer:

(a) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against an individual with respect to his compensation, terms, conditions, or privileges of employment, because such individual has been diagnosed as having category 1/0, 1/1, or 1/2 occupational pneumoconiosis with no respiratory impairment resulting from exposure to coal dust; or

(b) To limit, segregate, or classify his employes in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect his status as an employe, because such individual has been diagnosed as having category 1/0, 1/1, or 1/2 occupational pneumoconiosis with no respiratory impairment resulting from exposure to coal dust.

(3) Any individual injured by any act in violation of the provisions of subsection (1) or (2) of this section shall have a civil cause of action in circuit court to enjoin further violations, and to recover the actual damages sustained by him, together with the costs of the law suit, including a reasonable fee for his attorney of record.

Section 22. KRS 342.205 is amended to read as follows:

(1) After an injury and so long as compensation is claimed, the *employe* [~~workman~~], if requested by a party or by the *administrative law judge* [~~board~~], shall submit himself to examination, at a reasonable time and place, to a duly qualified physician or surgeon designated and paid by the requesting party. The employe shall have the right to have a duly qualified physician or surgeon designated and paid by himself present at such examination, but this right shall not deny the requesting party's physician or surgeon the right to examine the injured employe at all reasonable times and under all reasonable conditions.

(2) If an employe refuses to submit himself to or in any way obstructs such examination his right to take or prosecute any proceedings under this chapter shall be suspended until such refusal or obstruction ceases. No compensation shall be payable for the period during which the refusal or obstruction continues.

(3) Any employe receiving benefits under this chapter may be required, upon request of any party, to furnish a sworn affirmed statement of earnings and such other supporting information as the *administrative law judge* [~~board~~] may require.

(4) The board shall supply forms for such report.

Section 23. KRS 342.215 is amended to read as follows:

(1) The workers' compensation board is hereby created and established. The board, through the commissioner, shall exercise complete authority over the administration of the department of workers' claims and shall rule on appeals of decisions rendered by administrative law judges under this chapter.

(2) The workers' compensation board shall consist of *three (3)* [~~five (5)~~] members appointed by the governor [~~and shall be attached to the labor cabinet for administrative services~~]. *Each member shall hold no other public office and shall devote his full time to the duties of his office.*

(3)[~~(1)~~] Of the members first appointed under this *Act* [~~chapter~~] one shall serve *a term of two (2) years* [~~until January 1, 1974~~]; one *a term of three (3) years* [~~until January 1, 1975~~]; *and* one *a term of four (4) years, as designated by the governor at the time of the appointments* [~~until January 1, 1976; and two until January 1, 1977~~]. Thereafter, each term shall run for four (4) years from the date of expiration of the term for which *the member's* [~~his~~] predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of [~~such~~] a term shall be appointed for the remainder of the term. Each member of the board shall hold office until his successor is appointed and qualifies. The members of the board shall have the qualifications required of *appeals court* [~~circuit~~] judges, *except for residence in a district, and shall receive the same salary and shall be subject to the same standards of conduct.* The governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the governor. The governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing if he requests it. [~~Each member of the board shall be paid a salary in accord with the provisions of KRS 64.640.~~]

(4)[~~(2)~~] A decision concurred in by any *two (2) of the* three (3) members shall constitute a decision of the board [~~, unless there are two (2) unfilled vacancies in which case a majority of the remaining members shall constitute a decision of the board~~].

(5)[~~(3)~~] The terms of all members of the workers' compensation board who are in office prior to the effective date of this *Act* [~~chapter~~] shall automatically expire *one hundred eighty (180) days following its effective date. In addition to rendering decisions, awards and orders, the members shall assist in training the newly appointed full-time members of the workers' compensation board created pursuant to this Act and the newly employed administrative law judges* [~~on January 1, 1973, any other statute to the contrary not withstanding~~].

(6) Notwithstanding the provisions of KRS 21.350 the members of the workers' compensation board and the administrative law judges shall be members of the judicial retirement system.

SECTION 24. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (3) of this section the governor shall make all appointments to the board by choosing one (1) of three (3) names presented to him by the workers' compensation board nominating commission.

(2) The workers' compensation board nominating commission shall consist of seven (7) members appointed or elected as follows:

(a) One (1) member shall be the chief justice of the Supreme Court, who shall be chairman.

(b) Two (2) members shall be members of the bar, who shall be elected by their fellow members of the bar and who shall serve a term of two (2) years and until such time as their successors shall be elected. Their successors shall serve a term of four (4) years.

(c) The governor shall appoint four (4) members from among persons not members of the bar as follows:

1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and

2. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.

3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.

(d) Appointments or elections to fill the unexpired term of a member shall be for the remainder of the term.

(e) Members representing the bar shall be elected according to rules promulgated by the Supreme Court.

(3) The initial appointments to the board created pursuant to this Act shall be made by the governor from a list of nine (9) names submitted by the nominating commission.

Section 25. KRS 342.230 is amended to read as follows:

(1) Upon the recommendation of the *commissioner* [~~director~~], the board, within the limits of appropriations therefor, shall establish and fill any positions, including medical services and advice, necessary to carry on the board's work. *The employes of the department of workers' claims, except the commissioner, administrative law judges and board members, shall be members of the classified service.*

(2) The *board* [~~governor~~] shall *employ* [~~appoint~~] a *commissioner* [~~director of the board who shall also serve as the director of the division of workers' compensation within the labor cabinet~~]. The *commissioner* [~~director~~] shall have immediate supervision of the employes of the *department* [~~board~~], perform such duties as are assigned him, and have complete authority, *on behalf of the board,* to carry out all the administrative functions *relating to the* [~~of the~~] *department* [~~division~~] of workers' *claims* [~~compensation. The director shall be an attorney who has been admitted to practice law in Kentucky and shall have practiced law for at least three (3) years~~]. *The commissioner* [~~He~~] shall keep and be the custodian of the records of the board *and the administrative law judges,* shall annually report the activities of the board *and administrative law judges* to the governor, and shall devote his full time to the duties of his office. He shall receive a salary to be fixed by the *board* [~~governor~~].

(3) The *board* [~~governor~~] shall *employ* [~~appoint~~] not more than *ten (10) administrative law judges* [~~the number of hearing officers authorized by regulation of the board~~], each of whom shall *have the qualifications of a circuit judge, except residence in a district, and shall be paid the same salary and shall be subject to the same standards of conduct* [~~be an attorney admitted to practice law in Kentucky and shall have practiced law for at least three (3) years~~]. These *administrative law judges* [~~officers, upon the direction of the director or the board,~~] shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by *statute and* [~~the director or the board except that such hearing officers~~] shall [~~not~~] render final decisions, orders, or awards. [~~However such~~] *Administrative law judges* [~~Hearing officers~~] may, in receiving evidence [~~on behalf of the board~~], make such rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.

(4) The board may at any time *remove* [~~recommend the removal of~~] the *commissioner* [~~director~~] or any *administrative law judge* [~~hearing officer upon filing with the governor a full written statement of its reasons for such removal~~].

Section 26. KRS 342.240 is amended to read as follow:

The board shall maintain its main offices in Frankfort, Kentucky, using suitable rooms and offices belonging to this state, and shall be provided necessary office furniture to be paid for by the state. The board shall provide necessary supplies, books and periodicals and maps and shall provide itself with a seal for the authentication of its orders, awards or proceedings *and those of the administrative law judges,* on which shall be inserted the words "*Workers'* [~~"Workmen's~~] Compensation Board, State of Kentucky, official seal." The board *and the administrative law judges* may hold sessions at any place within the state where necessary and shall have power to sue or institute legal proceedings in any court of this state, under existing laws as to

jurisdiction of actions. Unless consented to by the board, all actions or proceedings against it or a member in his official capacity, *or against an administrative law judge or the commissioner in his official capacity* [~~as such~~] shall be brought in the courts of Franklin County.

Section 27. KRS 342.245 is amended to read as follows:

All proceedings of the board *and the administrative law judges* shall be recorded in [~~a~~] *books* [~~book~~] kept for that purpose by the *commissioner* [~~director~~], which shall constitute a public record and shall contain an entry of each case, claim or proceeding considered, heard or passed upon by *each administrative law judge and* the board [~~or a member thereof~~], with the award, finding or decisions made thereon.

SECTION 28. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

In a claim for benefits, no party may introduce direct testimony from more than three (3) physicians without prior consent from the administrative law judge. The motion requesting additional testimony shall clearly demonstrate the need for such additional testimony. A party may introduce direct testimony from a treating or non-treating physician through a written medical report. Such report shall become a part of the evidentiary record, subject to the right of an adverse party to object to the admissibility of such report and to cross-examine the reporting physician. The board shall promulgate administrative regulations prescribing the format and content of written medical reports.

Section 29. KRS 342.260 is amended to read as follows:

(1) The board shall prepare such *administrative* [~~rules and~~] regulations as it considers necessary to carry on its work *and the work of the administrative law judges* and may *promulgate* [~~make~~] *administrative regulations* [~~rules~~] not inconsistent with this chapter *and KRS Chapter 13A* for carrying out the provisions of this chapter.

(2) Processes and procedure under this chapter shall be as summary and simple as reasonably possible. The board or any member thereof *or any administrative law judge* for the purpose of this chapter, may subpoena witnesses, administer or cause to have administered oaths and examine or cause to have examined such parts of the books and records of the parties to a proceeding as relate to *questions* [~~question~~] in dispute.

(3) The sheriff shall serve all subpoenas of the board *and administrative law judges* and shall receive the same fee as provided by law for like service in civil actions. Each witness who appears in obedience to such subpoena of the board *or any administrative law judge* shall receive for attendance the fees and mileage for witnesses in civil cases in the circuit courts.

(4) The circuit court shall, on application of the board, [~~or~~] any member thereof, *or any administrative law judge,* enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and records.

Section 30. KRS 342.265 is amended to read as follows:

If the employe and employer reach an agreement conforming to the provisions of this chapter in regard to compensation, a memorandum of the agreement shall be filed with the *administrative law judge* [~~board~~], and, if approved by *him* [~~it~~], shall be enforceable as [~~is herein~~] provided *in KRS 342.305* [~~for the enforcement of awards by the board~~]. Nothing herein shall prevent the voluntary payment of compensation in the amounts and for the periods prescribed in this chapter without formal agreement, but nothing shall operate as a final settlement except a memorandum of agreement filed with *the administrative law judge* and approved by the *administrative law judge* [~~board~~] in accordance with this section. No limitations of time shall begin to run until the date upon which *the* [~~such~~] agreement is filed with and approved by *the administrative law judge* [~~the board~~].

Section 31. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application to the board for a hearing in regard to the matter at issue and for a ruling thereon. *The* [~~Such~~] application must be filed within two years after the accident, or, in case of death, within two years after such death, or within two years after the cessation of voluntary payments, if any have been made.

(2) Except with respect to uncontested claims for *retraining incentive benefits by reason of occupational*

pneumoconiosis related to exposure to coal dust, or for disability or death by reason of occupational diseases, *within thirty (30) days* [~~as soon as possible~~] after the application has been received the *commissioner* [~~board~~] shall set the date for a *pre-hearing conference* [~~hearing~~], to be held as soon as practicable in view of the matter involved, and shall notify the parties at issue of the time and place of *the pre-hearing conference* [~~such hearing~~].

(3) [~~Unless otherwise agreed to by the parties and authorized by the board, the hearing~~] *The pre-hearing conference* shall be held at or convenient to the place where the *employe resides provided that such hearing shall be held within the boundaries of the Commonwealth* [~~injury was sustained or the ground for disagreement occurred~~]. [~~Before directing a hearing, the board, a member thereof, the director or a~~] *At the pre-hearing conference, an administrative law judge* [~~hearing officer authorized by the board,~~] *shall* [~~may~~] confer informally with the parties at issue *and their counsel, if any, for the purpose of defining and narrowing the issues, discussing settlement, and considering other relevant matters that may aid in the disposal of the case. If agreement upon any matter is reached, the administrative law judge shall write a memorandum setting forth the matters agreed upon. The administrative law judge and all parties shall sign the memorandum, and the administrative law judge shall file it with the board. Once filed, the memorandum shall become a part of the record* [~~in an attempt to assist in adjusting their differences, but may not delay the granting of a hearing, over the objection of either party, for such purpose~~].

(4) If the parties have previously filed an agreement which has been approved by the *administrative law judge* [~~board~~] and compensation has been paid or is due in accordance therewith and the parties thereafter disagree either party may invoke the provisions of KRS 342.125 which remedy shall be exclusive.

(5) An application for adjustment of claim shall be held in abeyance by the *administrative law judge* [~~board~~] during any period voluntary payments of compensation are being made under any benefit sections of this chapter to the maximum which the employe's wages shall entitle him, unless it shall be shown that the prosecution of the employe's claim would be prejudiced by delay.

Section 32. KRS 342.275 is amended to read as follows:

[~~Except with respect to uncontested claims for disability or death by reason of occupational diseases~~] *In any claim in which settlement is not reached at the pre-hearing conference, the administrative law judge* [~~, the board, or any of its members, the director or any hearing officer~~] *shall schedule the matters at issue for hearing within sixty (60) days from the date of the pre-hearing conference in a location at or convenient to the place where the employe resides provided that such conference shall be held within the boundaries of the Commonwealth. The administrative law judge may grant continuances according to criteria established in administrative regulations promulgated by the board. The commissioner shall notify the parties at issue of the time and place of the hearing. The administrative law judge shall render the award, order or decision within thirty (30) days following the hearing.* [~~directed by the board shall hear the parties at issue and their representatives and witnesses and the full board shall determine the dispute in a summary manner. The award, order or decision shall be made within thirty (30) days after final submission, except in cases involving large or complicated records or unusual questions of law, and shall be made within sixty (60) days after final submission in any event. However, if the award, order or decision is not rendered within thirty (30) days the board shall notify the parties in dispute setting out the reasons for such delay.~~] The award, order or decision, together with a statement of the findings of fact, rulings of law and any other matters pertinent to the question at issue shall be filed with the record of proceedings, and a copy of the award, order or decision shall immediately be sent to the parties in dispute.

Section 33. KRS 342.281 is amended to read as follows:

Within fourteen (14) days from the date of the award, order or decision any party may file a petition for reconsideration of the award, order, or decision of the *administrative law judge* [~~full board~~]. The petition for reconsideration shall clearly set out the errors relied upon with the reasons and argument for reconsideration of the pending award, order, or decision. All other parties shall have ten (10) days thereafter to file a response to the petition. The *administrative law judge* [~~board~~] shall be limited in such review to the correction of errors patently appearing upon the face of the award, order, or decision and shall overrule the petition for reconsideration or make such correction within ten (10) days after submission.

Section 34. KRS 342.285 is amended to read as follows:

(1) An award or order of the *administrative law judge* [~~board~~] as provided in KRS 342.275, if petition for reconsideration is not filed as provided for in KRS 342.281, shall be conclusive and binding as to all questions

of fact, but either party may *in accordance with administrative regulations promulgated by the board* [~~within twenty days after the rendition of such final award or order of the board, by petition~~] appeal to the *workers' compensation board* [~~circuit court that would have jurisdiction to try an action for damages for the injuries if this chapter did not exist,~~] for the review of such order or award[~~, the board and the adverse party being made respondents. The board shall be named respondent as the workmen's compensation board, and service shall be had on the director~~].

(2) [~~The petition shall state fully the grounds upon which a review is sought, and assign all errors relied on. Summons shall issue upon the petition directing the adverse party to file answer and cross-appeal, if appropriate, within twenty days after service thereof and directing the board to send its entire original record, properly bound, to the clerk of the circuit court, after certifying that such record is its entire original record, which shall be filed by the clerk of the circuit court and such record shall then become and be considered by the circuit court on the review.~~

~~(3)~~] No new or additional evidence may be introduced *before the board* [~~in the circuit court~~] except as to the fraud or misconduct of some person engaged in the administration of this chapter and affecting the order, ruling or award, but the *board* [~~court~~] shall otherwise hear the *appeal* [~~cause~~] upon the record as certified by the *administrative law judge* [~~board~~] and shall dispose of the *appeal* [~~cause~~] in summary manner. The *board* [~~court~~] shall not substitute its judgment for that of the *administrative law judge* [~~board~~] as to the weight of evidence on questions of fact, its review being limited to determining whether or not:

(a) The *administrative law judge* [~~board~~] acted without or in excess of *his* [~~its~~] powers;

(b) The order, decision, or award was procured by fraud;

(c) The order, decision, or award is not in conformity to the provisions of this chapter;

(d) The order, decision, or award is clearly erroneous on the basis of the reliable, probative, and material evidence contained in the whole record; or

(e) The order, decision, or award is arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

(3)[~~(4) The board and each party may appear in such review proceedings;~~] *Within thirty (30) days from final submission,* the *board* [~~court~~] shall enter *its decision* [~~judgment~~] affirming, modifying or setting aside the order, decision or award, or in its discretion remanding the *claim* [~~cause~~] to the *administrative law judge* [~~board~~] for further proceedings in conformity with the direction of the *board* [~~court~~]. The *board* [~~court~~] may, before *decision* [~~judgment~~] and upon a sufficient showing of fact, remand the *claim* [~~cause~~] to the *administrative law judge* [~~board~~].

[~~(5) The appeal shall be advanced on the circuit court docket without motion or notice.~~]

Section 35. KRS 342.290 is amended to read as follows:

[~~(1)~~] The *decision* [~~judgment~~] of the *board* [~~circuit court~~] shall be subject to *review by* [~~appeal to~~] the Court of Appeals *pursuant to Section 111 of the Kentucky Constitution and rules adopted by the Supreme Court.* The scope of review by the Court of Appeals shall include all matters subject to review by the *board* [~~circuit court~~] and also errors of law arising *before the board* [~~in the circuit court~~] and [~~upon appeal~~] made reviewable by the *rules of the Supreme Court for review of decisions of an administrative agency.* [~~Rules of Civil Procedure where not in conflict with this chapter.~~

~~(2) The procedure as to appeal to the Court of Appeals shall be the same as in civil actions, so far as it is applicable to and not in conflict with this chapter.~~

~~(3) The appeal shall be advanced on the Court of Appeals docket without motion or notice.~~]

Section 36. KRS 342.295 is amended to read as follows:

The [~~circuit court or the~~] court of appeals may make such rule or order as it may deem necessary for the safekeeping, transporting and return of such original records of the *workers'* [~~workmen's~~] compensation board

to the [~~said~~] board when the judgment in the case becomes final, provided that a copy of the final judgment shall be returned with each record. When any appeal has become final the clerk of the court of appeals shall return such original record to the *workers'* [~~workmen's~~] compensation board, *which* [~~who~~] shall safely keep the same. At all times thereafter such record shall remain a part of the record of the case in the court of appeals, though kept in the possession of the *workers'* [~~workmen's~~] compensation board.

Section 37. KRS 342.300 is amended to read as follows:

Upon motion of either party and a sufficient showing of reason and necessity therefor, the *court of appeals* [~~circuit court~~] to which an appeal is taken may continue in force the award, judgment, or order appealed from, pending its decision of such appeal, but to be suspended upon the execution by the adverse party of a supersedeas bond [~~for appeal to the Court of Appeals~~].

Section 38. KRS 342.305 is amended to read as follows:

Any party in interest may file in the circuit court of the county in which the injury occurred a certified copy of a memorandum of agreement approved by the *administrative law judge* [~~board~~] or of an order or decision of the *administrative law judge or* board, or of an award of the *administrative law judge* [~~board~~] on appeal from, or an award of the board rendered upon an appeal whether or not there is a motion to reopen or review pending under KRS 342.125. The court shall render judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same as though it had been rendered in a suit duly heard and determined by that court. Any such judgment, unappealed from or affirmed on appeal or modified in obedience to the mandate of the Court of Appeals shall be modified to conform to any decision of the *administrative law judge* [~~board~~] ending, diminishing or increasing any weekly payment under the provisions of KRS 342.125 upon a presentation to it of a certified copy of such decision.

Section 39. KRS 342.310 is amended to read as follows:

If *any administrative law judge,* the board or any court before whom any proceedings are brought under this chapter determines that such proceedings have been brought, prosecuted or defended without reasonable ground, *he or* it may assess the whole cost of the proceedings which shall include actual expenses but not be limited to the following: court costs, travel expenses, deposition costs, physician expenses for attendance fees at depositions, attorney fees, and all other out-of-pocket expenses upon the party who has so brought, prosecuted or defended them.

Section 40. KRS 342.315 is amended to read as follows:

(1) *An administrative law judge* [~~The board, or any member thereof,~~] may, upon the application of either party or upon *his* [~~its~~] own motion, appoint not more than three (3) disinterested and duly qualified physicians or surgeons to make any necessary medical examination of the employe and to testify in respect thereto. Such physicians or surgeons shall file with the *administrative law judge* [~~board~~] within fifteen (15) days after such examination their joint report in writing. The physicians or surgeons shall be allowed a reasonable fee to be fixed by the *administrative law judge* [~~board~~] and paid out of the *special* [~~maintenance~~] fund, not exceeding seventy-five dollars ($75.00) for each examination and report, except that the *administrative law judge* [~~board~~] may allow additional reasonable amounts in extraordinary cases and the reasonable cost of X-rays, if any; the *administrative law judge* [~~board~~] may in *his* [~~its~~] discretion allow a fee not in excess of twenty-five dollars ($25.00) for any deposition given by such physicians or surgeons.

(2) The party filing the motion for an examination shall pay the necessary and reasonable traveling expenses incurred by the employe in submitting to such examination. If the examination is ordered on the *administrative law judge's* [~~board's~~] own motion, then such traveling expenses shall be paid out of the *special* [~~maintenance~~] fund.

Section 41. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employe was last exposed to the hazard of the occupational disease during any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973 shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners

previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator. Said employer shall have the right to contribution from each previous employer, as determined in an independent civil action, wherein the employe was similarly exposed to the hazard of said occupational disease, in a sum equal to the ratio that each exposure employment time bears to the total exposure employment time except as otherwise provided in paragraph (a) of subsection *(10)* [~~(13)~~] of this section; and

(b) The time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, *except that the time of the beginning of retraining incentive benefits awarded under Section 57 of this Act shall be the date the award for such benefits by the administrative law judge becomes final.*

(2) (a) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to such disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted such disease, or a diagnosis of such disease is first communicated to him, whichever shall first occur;

(b) The procedure with respect to filing of claims shall be as follows:

1. *a.* The application shall set forth the *complete* work history of the applicant with a concise description of injurious exposure to a specific occupational disease together with the name and addresses of *the* employer or employers with the approximate dates of employment. *The application* [~~and~~] shall also include [~~with the application~~] *at least* two (2) written medical reports supporting his claim. These medical reports shall be made on the basis of comprehensive clinical examinations *performed in accordance with accepted medical standards* and shall contain full and complete statements of *all examinations performed and* the results thereof. The reports shall be made by duly licensed physicians. *Within one hundred and eighty (180) days following the effective date of this Act, the board shall promulgate administrative regulations which prescribe the format of the medical reports required herein and the manner in which such reports shall be completed.*

b. For coal-related occupational pneumoconiosis claims, each [~~the~~] clinical examination shall include *chest* x-ray examinations *and spirometric tests.* [~~However, the failure of an x-ray examination to disclose the presence of an occupational disease shall not affect the legal presumption referred to in subsection (5) of this section.~~]

c. For other compensable occupational pneumoconiosis claims, each clinical examination shall include x-ray examinations and appropriate pulmonary function tests.

2. To be admissible, medical evidence offered in any proceeding under this chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust, shall comply with accepted medical standards as follows:

a. Chest x-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the x-ray and the name and social security number of the claimant. Physicians' reports of x-ray interpretations shall: identify the claimant by name and social security number; include the date of the x-ray and the date of the report; classify the x-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of the latest ILO Classification report.

b. Spirometric testing shall be conducted in accordance with the standards recommended in the latest edition available of the guides to the evaluation of permanent impairment published by the American medical association and the 1978 ATS epidemiology standardization project. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater. Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken.

[~~The filing of a properly executed application for adjustment of claim, accompanied by the two (2) medical reports described in subparagraph 1. Of this paragraph, shall satisfy the requirements of the presumptive clause set out in subsection (5) of this section and the burden of proof shall immediately thereafter shift to the employer;~~]

3. The board shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of this section. The board shall periodically review the applicability of the spirometric test values contained in the latest edition available of the guides to the evaluation of permanent impairment published by the American medical association and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.

(c) The procedure with respect to the determination of claims shall be as follows:

1.[~~3.~~] Immediately upon receipt of said application for adjustment of claim, the *commissioner* [~~board~~] shall notify the affected employer, the special fund and any other interested party of such claim and shall furnish them with a full and complete copy of the claim;

2.[~~4.~~] Upon receipt of notice of *the* claim the employer, the special fund, and any other interested party shall have the right to have the claimant examined by competent medical experts, at their expense, including a reasonable sum for travel. *Within thirty (30) days of* [~~After~~] *any such* [~~said~~] examination, the claimant or his representative shall be furnished a copy of said medical report *by the party requesting such report* [~~within a reasonable time~~]. Also, the employer, the special fund, or any other party to the claim shall have the right to have the claimant evaluated by vocational experts or institutions, at their expense, including a reasonable sum for travel. *Within thirty (30) days of any such* [~~After said~~] examination, the claimant or his representative, shall be furnished a copy of said vocational report *by the party requesting such report.* [~~within a reasonable time~~]; and

3.[~~5.~~] Within *sixty (60)* [~~ninety (90)~~] days of the receipt of *the claim* [~~notice by the employer of the filing of the claim~~], the employer, the special fund, and any other interested party shall notify the board and the claimant whether or not the claim will be resisted. If the claim is not resisted, then *an administrative law judge* [~~the board~~] shall within ten (10) days enter an order and award for the claimant. If the claim is resisted, the *administrative law judge* [~~board~~] shall set a date for a *pre-hearing conference* [~~hearing~~] and shall notify all parties thereof. In litigated claims the regular procedures prescribed by the workers' compensation board shall be followed. *Upon request of an interested party and a showing of good cause the administrative law judge may extend, one time, the time period for filing a notice of resistance as prescribed in this subparagraph, provided said extension shall not exceed thirty (30) days.*

(3) *(a)* The right to compensation under this chapter [~~for disability~~] resulting from an occupational disease shall be forever barred unless a claim is filed with the workers' compensation board within three (3) years after the last injurious exposure to the occupational hazard or after the employe first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within said period, unless a claim therefor be filed with the workers' compensation board within three (3) years after such death; provided, however, that notice of such claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or, if the incurrence of the disease or the death of the employe, and its cause was known to the employer. Provided, however, that the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the workers' compensation board within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease or asbestos-related disease, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.

(b) Income or retraining incentive benefits for the disease of pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employe has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years immediately preceding the date of his last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.

(4) The amount of compensation payable for disability due to occupational disease or for death from such disease, and the time and manner of its payment, shall be as provided for under the general provisions of the workers' compensation act, but in no event to exceed such amounts as were in effect at the time of the last

injurious exposure, and provided further, that the time of the beginning of compensation payments shall be the date of the employe's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later, and provided further, that in case of death where the employe has been awarded compensation or made timely claim within the period provided for in this section, an employe has suffered continuous disability to the date of his death occurring at any time within twenty (20) years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the workers' compensation act and in this section.

[~~(5) Where the occupational disease is a compensable pneumoconiosis and there has been employment exposure for ten (10) years or more to an industrial hazard sufficient to cause the disability of pneumoconiosis there shall be a rebuttable presumption that the disability or death was due to the compensable pneumoconiosis.~~

~~(6) Where the employe is suffering or suffered from a chronic dust disease of the lung which:~~

~~(a) When diagnosed by chest roentgenogram, yields one (1) or more large opacities (greater than one (1) centimeter in diameter) and would be classified in category A, B, or C in the international classification of radiographs of the pneumoconiosis by the international labor organization;~~

~~(b) When diagnosed by biopsy or autopsy, yields massive lesions in the lung; or~~

~~(c) When diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in paragraph (a) or (b) of this subsection if diagnosis had been made in the manner prescribed in paragraph (a) or (b) of this subsection, then there shall be an irrebutable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, as the case may be.~~

~~(7) In case of disability or death from silicosis, coal workers' pneumoconiosis, or any other compensable pneumoconiosis complicated with tuberculosis of the lungs, pulmonary emphysema or other pulmonary dysfunction and there has been employment exposures to harmful dust or industrial hazards reasonably competent to produce such accompanying disease or dysfunction, there is a rebuttable legal presumption that all resultant disability therefrom is work related and compensable, and compensation shall be payable as for the uncomplicated disease, provided, however, that the disease or dysfunction was an essential factor in causing such disability or death~~].

(5)[~~(8)~~] If an autopsy has been performed, no testimony relative thereto shall be *admitted* [~~competent~~] unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(6)[~~(9)~~] No compensation shall be payable for occupational disease if the employe at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of such disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(7)[~~(10)~~] No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which, under the provisions of this chapter would give right to compensation, arose, subsequent to the beginning of the first compensable disability, save only to after-born children of a marriage existing at the beginning of such disability.

(8)[~~(11)~~] Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of such cause, that the claim for injury, disability or death which was the basis for such application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for such injury, disability or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and such compensation may be awarded as is warranted by the whole evidence pursuant to the provisions of this chapter. When such amendment is submitted, further or additional evidence may be heard by the *administrative law judge* [~~board~~] when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required herein.

(9)[~~(12)~~] When an employe has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier; except as otherwise provided herein.

(10)[~~(13)~~] (a) *Except as provided in paragraph (c) of this subsection,* the employer liable for compensation for occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, shall be the employer in whose employment the employe was last exposed to the hazard of such occupational disease. In those cases where disability or death are not conclusively proven to be the result of such last exposure all compensation shall be paid out of the special fund for all claims filed prior to January 1, 1973; and seventy-five percent (75%) shall be paid by the special fund and twenty-five percent (25%) by the employer for all claims filed thereafter. In all other cases of occupational diseases, other than silicosis or any other compensable pneumoconiosis, which developed to the point of disablement only after an exposure of five (5) or more years, or for silicosis and any other compensable pneumoconiosis, the compensation for disability or death due to such diseases shall be paid jointly by the employer and the special fund, and the employer shall be liable for sixty percent (60%) of the compensation due and the special fund shall be liable for forty percent (40%) of the compensation due. Provided, however, that when there is a joint award against the carrier or self-insured employer and the special fund under this section, all of the compensation awarded shall be paid pursuant to KRS 342.120 and under such regulations as the board may provide for such purpose; and

(b) In all claims for compensation partially payable by the special fund the *director of the division of the special fund* [~~secretary of labor~~] shall be designated as codefendant.

(c) The employer in whose employment the employe was last exposed to the hazard of the disease shall alone be liable for payment of retraining incentive benefits awarded under Section 57 of this Act.

Section 42. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of the *administrative law judge pursuant to the statutes and administrative regulations* [~~board~~]. *In an original claim,* no attorney fees shall be allowed or approved against any party not represented by said attorney, nor shall any attorney fee be allowed or approved exceeding an amount equal to 20 percent of the first $25,000.00, 15 percent of the next $10,000.00 and 5 percent of the remainder of the amount recovered as actuarily determined on past and future benefits according to the *life expectancies contained in the overall male or female mortality tables in the most recent available edition of the U.S. decennial life tables* [~~American Experience Table of Mortality~~] and the Remarriage Tables of the Dutch Royal Insurance Institute. *If the most recent edition of the U.S. decennial life tables includes Kentucky tables, those tables shall be used. If it does not, the national tables shall be used.* In no case shall the fee exceed $6,500.00. Provided, however, the *administrative law judge* [~~board~~], in making an allowance of attorney fees, shall in each case examine the record to ascertain the extent of the services rendered, and fix a reasonable fee for the services rendered, not to exceed the maximum authorized by this section. The *administrative law judge* [~~board~~] may reduce the attorney's fee to an amount commensurate with the services performed, or may deny or reduce an attorney's fee upon proof of solicitation of employment. Any award made to a claimant in a nonresisted claim as established under the provisions of KRS 342.316 [~~(2)(b), paragraph 5,~~] shall result in an award of an attorney fee not exceeding $750.00.

(2) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the *administrative law judge* [~~board~~], and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. *The motion for approval of an attorney fee shall be submitted within thirty (30) days following finality of the last appealable order of the administrative law judge. The attorney fee shall be paid in one of the following ways:*

(a) The entire attorney's fee in a lump sum shall be paid directly to the attorney of record and the administrative law judge shall order the payment of same commuting sufficient of the final payments of compensation payable under the award to a lump sum for that purpose; or

(b) The claimant may pay the attorney's fee out of his personal funds; or

(c) The administrative law judge, upon request of the claimant, may order the payment of the attorney's fee

in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the claimant in equal installments over the duration of the award or until the attorney's fee has been paid. [~~The entire attorney's fee in a lump sum shall be paid directly to the attorney of record, and the board in allowing or approving an attorney's fee, as provided in this section, shall order the payment of same directly to the attorney, commuting sufficient of the final payments of compensation payable under the award to a lump sum for that purpose.~~]

(3) The attorney shall explain to the claimant the methods by which this section provides for the payment of the attorney's fee, and the claimant shall select the method in which his attorney's fee, is to be paid. His selection and statement that he fully understands the method to be used shall be submitted, on a notarized form signed by the claimant, by his attorney at the time the motion for approval of the attorney's fee is submitted. The board shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of attorney fees and an explanation in nontechnical language of each method.

(4)[~~(3)~~] The general assembly declares that by the enactment of *subsection* [~~subsections~~] (2)(b) [~~and (7)~~] of KRS 342.316, it is the legislative intent to encourage settlement and prompt administrative handling of such claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the *administrative law judge* [~~board~~] shall give due regard to such legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(5)[~~(4)~~] The *administrative law judge* [~~board~~] shall approve any contract between attorney and client if the limits on fees enumerated below are followed:

(a) When the claim is uncontested under the provisions of KRS 342.316 [~~(2)(b), paragraph 5,~~] the attorney fee shall not exceed an amount equal to $750.00.

(b) In all other claims, the fee of the attorney shall not exceed a sum equal to twenty percent (20%) of the amount recovered, or $5000.00, whichever is less.

[~~(c) When an order or award is appealed to the Court of Appeals, the attorney fee shall not exceed 20 percent of the amount recovered, or $6000.00, whichever is less.~~]

(6) (a) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney fee may be awarded by the administrative law judge. In awarding the attorney fee, the administrative law judge shall consider:

1. The quality of services rendered by the attorney;

2. The amount awarded for attorney fees on the original award; and

3. The extent of the services rendered.

(b) Thereafter, the administrative law judge shall fix the attorney fee. No attorney fee shall be allowed or approved against any party not represented by said attorney, nor shall any attorney fee be allowed or approved exceeding an amount equal to twenty percent (20%) of any additional amount recovered but shall not exceed three thousand two hundred and fifty dollars ($3,250). If there is no additional amount recovered in a reopened claim, there shall be no attorney fee.

Section 43. KRS 342.325 is amended to read as follows:

All questions arising under this chapter, if not settled by agreement of the parties interested therein, with the approval of the *administrative law judge* [~~board~~], shall be determined by the *administrative law judge* [~~board~~] except as otherwise provided in this chapter.

Section 44. KRS 342.375 is amended to read as follows:

Every policy or contract of *workers'* [~~workmen's~~] compensation insurance under this chapter, issued or delivered in this state, shall cover the entire liability of the employer for compensation to every one of his employes subject to this chapter, except as otherwise provided in KRS 342.345. However, if specifically authorized by the *commissioner* [~~director~~], a separate insurance policy may be issued for a specified plant or

work location if the liability of such employer under this chapter to all his other employes subject to this chapter is otherwise secured and provided that no employe transferred from one plant or work location to another within the employment of the same employer shall thereby lose any benefit rights accumulated under the average weekly wage concept.

Section 45. KRS 342.402 is amended to read as follows:

The *workers'* [~~workmen's~~] compensation board[~~, the director, or his authorized representative~~], upon showing a certification of noncompliance, may temporarily restrain or temporarily or permanently enjoin the further operation of any employer covered by this chapter. Such action shall be brought in Franklin Circuit Court.

Section 46. KRS 342.425 is amended to read as follows:

Upon the request of the board, the attorney general, or, under his direction, the commonwealth's attorney or county attorney of any county, shall institute and prosecute the necessary actions or proceedings for the enforcement of any of the provisions of this chapter arising within his jurisdiction, and shall defend in like manner all actions or proceedings brought against the board, [~~or~~] the members thereof *or administrative law judge* in their official capacity.

Section 47. KRS 342.435 is amended to read as follows:

Annually on or before the 15th day of December the board shall make a report to the governor for the preceding fiscal year, which shall include a statement of the number of awards made and of claims rejected by it, a general statement of the causes of accident leading to the injuries for which awards were made or rejected claims based, [~~and a detailed statement of disbursements from and unpaid expenses chargeable against the maintenance fund and its condition,~~] together with any other information which the board deems proper to call to the attention of the governor, including any recommendations it may have to make, and it shall be the duty of the board to publish and distribute among employers and employes such general information as to the business transacted by the department as may be useful and necessary. The annual report shall not exceed ten thousand (10,000) copies. All printing of the department shall be done by the contractor or contractors for public printing, subject to such provisions of the general laws governing public printing as may be applicable thereto.

Section 48. KRS 342.450 is amended to read as follows:

(1) Every insurance carrier including the parties to any inter-indemnity contract or reciprocal plan or scheme, insuring employers in this state against liability for personal injuries to their employes, or death caused thereby under this chapter, shall pay a tax upon the premium received, whether in cash or notes, in this state or on account of business done in this state, for such insurance in this state at the rate of two percent (2%) of the amount of such premium [~~and any additional assessment made pursuant to subsection (2) of this section~~]. Such insurance carriers shall be credited with all cancelled or returned premiums, including dividends paid or credited to policyholders, and the premiums received for reinsurance assumed from companies authorized and licensed to transact business in this state.

(2) [~~If the secretary of finance and administration and the secretary of labor find that the tax on premiums levied pursuant to KRS 342.475 and subsection (1) of this section, are insufficient to meet the maintenance fund level of appropriations and expenditures for all programs in the labor cabinet, the Kentucky occupational safety and health review commission and the uninsured employers' fund as reflected in the enacted budget of the Commonwealth and the joint budget bill enacted by the general assembly, they shall advise the secretary of revenue in writing of such fact prior to the end of each fiscal year. The secretary of revenue may then levy one (1) additional assessment per fiscal year against all insurance companies writing workers' compensation insurance in Kentucky, all self-insurance groups operating under this chapter, and every employer carrying his own risk. The amount of each assessment shall be in the proportion that each assessment payers' "adjusted cost" bears to the total "adjusted cost" of all assessment payers.~~

~~(3)~~] Every such insurance carrier shall make an annual return of its president and secretary, or other chief officer or agents, to the revenue cabinet, stating the amount of all such premiums and credits during the period covered by that return. Every insurance carrier required to make such return shall file it by March 1, and shall at the same time pay the tax of two dollars ($2) on each one hundred dollars ($100) of such premiums ascertained as provided in subsection (1) of this section, less returned premiums, including dividends paid or

credited to policyholders, and reinsurance received from other companies licensed to transact business in this state, [~~and shall thereafter pay any additional assessment made pursuant to subsection (2) of this section,~~] at the time and in the manner prescribed by the secretary of revenue.

(3) Notwithstanding the provisions of subsection (2) of this section, every such insurance carrier shall make a return stating the amount of all workers' compensation premiums and credits during the period from January 1, 1987 to October 31, 1987. Every insurance carrier required to make such return shall file it by January 1, 1988, and shall therewith pay a maintenance fund tax of two dollars ($2) on each one hundred dollars ($100) of workers' compensation premiums received and a special fund tax at the rate of three-fourths (3/4) of one percent (1%) of such premiums during the period from January 1, 1987 to October 31, 1987, as provided in KRS 345.445 and subsection (1) of this section.

Section 49. KRS 342.460 is amended to read as follows:

If any such insurance carrier withdraws from business in this state before the *special fund assessments* [~~tax~~] required in *this chapter* [~~KRS 342.450~~] falls due or fails to pay such tax, the *funding commission* [~~revenue cabinet~~] shall at once proceed to collect it. The *funding commission* [~~revenue cabinet~~] may employ any legal process necessary for that purpose. The suit may be brought by the revenue cabinet in any court of this state having jurisdiction. Reasonable attorney's fees may be taxed as costs therein, and process may issue to any county of the state and may be served as in civil actions, or, in cases of unincorporated associations, partnerships, interindemnity contracts or other plan or scheme, upon the principal agent of the parties thereto.

Section 50. KRS 342.475 is amended to read as follows:

(1) Every employer carrying his own risk under KRS 342.340 shall report to the revenue cabinet his "adjusted cost" of operating under the provisions of this chapter during the period covered by such report. Such report shall be made in form prescribed by the revenue cabinet and at the time provided for premium reports by the insurance carriers. The revenue cabinet shall assess against such "adjusted costs" so reported a maintenance fund tax of two percent (2%) [~~, and shall make an additional assessment if required by KRS 342.450. Such amount shall not exceed the maintenance fund level of appropriations and expenditures for all programs in the labor cabinet, the Kentucky occupational safety and health review commission and the uninsured employers' fund as reflected in the enacted budget of the Commonwealth enacted by the general assembly~~].

(2) Notwithstanding the provisions of subsection (1) of this section every employer carrying his own risk under KRS 342.340 shall file an adjusted cost report by January 1, 1988 and shall pay a two percent (2%) maintenance fund tax and a three fourths (3/4) percent special fund tax on such "adjusted cost." "Adjusted cost" as used in this section means all liability incurred for compensation, hospital and medical benefits to be paid pursuant to this chapter, except that any employer defined in KRS 342.630(2) may compute "adjusted cost" on the basis of benefits paid rather than liability incurred. "Adjusted cost" for all employers shall include an additional factor of twelve percent (12%) of such total liabilities or benefits paid.

Section 51. KRS 342.620 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Injury" means any work related harmful change in the human organism, arising out of and in the course of employment including damage to or loss of a prosthetic appliance, but does not include any communicable disease unless the risk of contracting such disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease.

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this section shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employe. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" as used in KRS 342.316 shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employes covered by this chapter.

(8) "Department" means the department of workers' claims in the labor cabinet.

(9) "Commissioner" means the commissioner of the department of workers' claims under the direction and supervision of the *workers' compensation board* [~~secretary of labor~~].

(10)[~~"Director" means the director of the workers' compensation board.~~]

[~~(11)~~] "Board" means the workers' compensation board.

(11)[~~(12)~~] "Disability" means a decrease of wage earning capacity due to injury or loss of ability to compete to obtain the kind of work the employe is customarily able to do, in the area where he lives, taking into consideration his age, occupation, education, effect upon employe's general health of continuing in the kind of work he is customarily able to do, and impairment or disfigurement.

(12)[~~(13)~~] "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13)[~~(14)~~] "Medical and related benefits" means payments made for medical, hospital, burial and other services as provided in this chapter other than income benefits.

(14)[~~(15)~~] "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15)[~~(16)~~] "Medical services" means medical, surgical, dental, hospital, nursing and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16)[~~(17)~~] "Person" means any individual, partnership, firm, association, trust, joint venture, corporation, or legal representative thereof.

(17)[~~(18)~~] "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel or similar advantages received from the employer, and gratuities received in the course of employment from others than the employer as evidenced by the employe's federal and state tax returns.

(18)[~~(19)~~] "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with such farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19)[~~(20)~~] "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20)[~~(21)~~] "United States" when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21)[~~(22)~~] "Alien" means a person who is not a citizen, a national or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed at underground, auger and surface mining sites, all activities performed at tipple or processing plants that clean, break, size or treat coal and all activities performed at coal loading facilities for trucks, railroads and barges. Severance or processing of coal shall not include acts performed by a final consumer if such acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, corporations, joint ventures, associations or any other business entity which has employes on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether such acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. Provided however, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employes engaged in the severance or processing of coal bears to the total number of employes. Any employe who is involved in the act of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" means for every group of self-insurers any and all assessments levied on its members by such group or contributed to it by the members thereof.

(25) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the workers' compensation board using generally accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The board shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each such claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of such claims using the adjusted weekly benefit shall then be calculated by the board. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The board shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from board records and from the records of the division of unemployment insurance. The board shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The board shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.12 and shall then be multiplied by the employer's most recent annualized payroll calculated using board records and division of unemployment insurance data which shall be made available for this purpose on a quarterly basis as reported to obtain the premium for the next calendar year for assessment purposes under this section.

(d) The calculations set forth in this section shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the board which shall form the employer's basis for assessments pursuant to Section 13 of this Act for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk

and is so certified, his premium for the purposes of this section shall be based on such lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation then his premium shall be the greater of the value obtained by the calculation called for in this section or the amount of security required by the board pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured such risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection except that the value for each such employer's claims shall be the total of the indemnity benefits paid by the employer, adjusted to current benefit levels, plus the medical benefits paid.

(26) "SIC code" as used in this chapter means the standard industrial classification code contained in the latest edition of the standard industrial classification manual published by the federal office of management and budget.

Section 52. 342.640 is amended to read as follows:

The following shall constitute employes subject to the provisions of this chapter, except as exempted under KRS 342.650:

(1) Every person, including a minor, whether lawfully or unlawfully employed, in the service of an employer under any contract of hire or apprenticeship, express or implied, and all helpers and assistants of employes whether paid by the employer or employe, if employed with the knowledge, actual or constructive, of the employer;

(2) Every executive officer of a corporation, *every working partner of a partnership and every partner of a partnership engaged in construction work and every partner of a partnership engaged in the severance or processing of coal as defined in this chapter*;

(3) Every person in the service of the state or of any political subdivision or agency thereof, or of any county, city of any class, school district, drainage district, tax district, public or quasi-public corporation or other political entity, under any contract of hire, express or implied, and every official or officer thereof, whether elected or appointed, while performing his official duties. Every person who is a member of a volunteer ambulance service, fire or police department shall be deemed for the purposes of this chapter, to be in the employment of the political subdivision of the state where the department is organized. Every person who is a regularly enrolled volunteer member or trainee of the civil defense corps of this state as established under KRS Chapter 39, shall be deemed for the purposes of this chapter, to be in the employment of this state. Every person who is a member of the Kentucky national guard, while said person is on active state service as defined in KRS 38.010(4) shall be deemed for the purposes of this chapter to be in the employment of this state;

(4) Every person performing service in the course of the trade, business, profession or occupation of an employer at the time of the injury; and

(5) Subject to the provisions in subsection (4) of this section, every person regularly selling or distributing newspapers on the street or to customers at their homes or places of business. For the purposes of this chapter such a person shall be deemed an employe of an independent news agency for whom he is selling or distributing newspapers, or, in the absence of such independent agency, of each publisher whose newspapers he sells or distributes.

Section 53. KRS 342.700 is amended to read as follows:

(1) Whenever an injury for which compensation is payable under this chapter has been sustained under circumstances creating in some other person than the employer a legal liability to pay damages, the injured employe may either claim compensation or proceed at law by civil action against such other person to recover damages, or proceed both against the employer for compensation and such other person to recover damages, but he shall not collect from both. If the injured employe elects to proceed at law by civil action against such

other person to recover damages, he shall give due and timely notice to the employer of the filing of such action. If compensation is awarded under this chapter, the employer, his insurance carrier, the special fund, and the uninsured employer's fund, or any of them, having paid the compensation or having become liable therefor, may recover in his or its own name or that of the injured employe from the other person in whom legal liability for damages exists, not to exceed the indemnity paid and payable to the injured employe, less the employe's legal fees and expense.

(2) A principal contractor, intermediate or subcontractor shall be liable for compensation to any employe injured while in the employ of any one of his intermediate or subcontractors and engaged upon the subject matter of the contract, to the same extent as the immediate employer. Any principal, intermediate or subcontractor who pays such compensation may recover the amount paid from any subordinate contractor through whom he has been rendered liable under this section. Every claim to compensation under this subsection shall in the first instance be presented to and instituted against the immediate employer, but such proceedings shall not constitute a waiver of the employe's rights to recover compensation under this chapter from the principal or intermediate contractor nor shall such claim be barred by limitations, provided such claim is filed against the principal or intermediate contractor within one year after a final unappealed order has been rendered by *an administrative law judge* [~~the Workmen's Compensation Board~~] determining that immediate employer has insufficient security to pay the full and maximum benefits that could be determined to be due him under this chapter. The collection of full compensation from one employer shall bar recovery by the employe against any other. But he shall not collect from all a total compensation in excess of the amount for which his immediate employer is liable. This subsection shall apply only in cases where the injury occurred on, in or about the premises on which the principal contractor has undertaken to execute work or which are under his control otherwise or management.

Section 54. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employe to gainful employment. To this end there is hereby created a rehabilitation panel which shall be composed of the *commissioner* [~~director~~] and specialists in medical and vocational rehabilitation to be appointed by the board.

(2) The panel shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public. The board in consultation with the panel, shall approve as qualified such facilities, institutions and physicians as are capable of rendering competent rehabilitation service to seriously injured employes. No facility or institution shall be considered as qualified unless it is specifically equipped to provide rehabilitation services for persons suffering either from some specialized type of disability or general type of disability within the field of occupational injury and is staffed with trained and qualified personnel, and with respect to physical rehabilitation, unless it is supervised by a physician qualified to render such service. No physician shall be considered qualified unless he has had the experience and training specified by the board.

(3) An employe who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time *is* necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the *administrative law judge* [~~board~~] shall inquire whether such services have been voluntarily offered and accepted. The *administrative law judge* [~~board~~] on *his* [~~its~~] own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employe to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, and after affording the parties an opportunity to be heard by the panel, the *administrative law judge* [~~board~~], in consultation with the panel, may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service the *administrative law judge* [~~board~~] may deem necessary, be provided at the expense of the defendants [~~as apportioned in the award~~]. Vocational rehabilitation training, treatment or service shall not extend for a period of more than fifty-two (52) weeks except in unusual cases when by special order of the *administrative law judge* [~~board~~], after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical and justifiable, the period may be extended for additional periods.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employe's customary residence, reasonable cost of his board, lodging or travel shall be paid for by the defendants.

(5) Refusal to accept rehabilitation pursuant to an order of *an administrative law judge* [~~the board~~] shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The board and the rehabilitation panel shall cooperate on a reciprocal basis with the Kentucky office of rehabilitation of the department of education and the employment services of the Kentucky cabinet for human resources. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employe by the office of vocational rehabilitation or department for employment services following the defendant's refusal to provide such services, the board, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the defendants as apportioned in the award.

(7) The board shall, by July 1, 1988, promulgate administrative regulations to effectuate the provisions of this section. The administrative regulations shall ensure early intervention; prompt and cost-efficient delivery of rehabilitation services and vigorous monitoring of qualified rehabilitation providers, facilities and agencies.

SECTION 55. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the division of the uninsured employers' fund within the labor cabinet's office of general counsel. The division of the uninsured employers' fund shall be administered by the general counsel who shall be responsible for directing and controlling the legal representation of the fund in all proceedings brought to enforce claims against or on behalf of the fund and the conservation of the assets of the fund.

(2) The uninsured employers' fund shall be responsible for the payment of compensation when there has been a default in the payment of compensation due to the failure of an employer to secure payment of compensation as required by this chapter. An uninsured employer shall be liable for payment into the uninsured employers' fund of the amounts authorized to be paid therefrom as provided by this subsection. For the purposes of enforcing this liability the labor cabinet, for the benefit of the fund, shall be subrogated to all of the rights of the person receiving compensation from the fund.

Section 56. KRS 342.730 is amended to read as follows:

(1) *Except as provided in Section 57 of this Act* income benefits for disability shall be paid to the employe as follows:

(a) For total disability, sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during such disability.

(b) For permanent, partial disability, sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of disability caused by the injury or occupational disease as determined by "guides to the evaluation of permanent impairment," American medical association, 1977 edition, or by his percentage of disability as determined under KRS 342.620 (11), whichever is greater, for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of KRS Chapter 342 to the contrary there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) When an employe, who has sustained disability compensable under this section, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, *portions of* the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after such death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, *benefits at fifty percent (50%) of the rate specified in the award*; or

(b) If there are both such a widow or widower and such a child or children, [~~one-half~~] to such widow or widower *forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of such benefits if such a child or children are not living with the widow or widower;* and, *in addition thereto, fifteen percent (15%) of the benefits specified in the award* [~~the other half~~] to *each* [~~such~~] child [~~or children~~]. *Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike*; or

(c) If there is no such widow or widower but such a child or children, then to such child or children, *fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of such benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children*; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750 or to both, in such proportions as the board may provide by regulation.

(e) To the widow or widower upon remarriage, up to two (2) years benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if such proportioned benefits remain unpaid, to be paid in a lump sum.

SECTION 57. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust shall be paid as follows:

(a) If the administrative law judge finds that an employe has a radiographic classification of category 1/0, 1/1 or 1/2, based on the latest ILO International Classification of Radiographics, and no respiratory impairment resulting from exposure to coal dust based upon spirometric testing values of eighty percent (80%) or more of the predicted normal values contained in the chapter on the respiratory system in the latest edition available of the guides to the evaluation of permanent impairment published by the American medical association, he shall award a one time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by fifty percent (50%) and shall be payable for a period not to exceed two hundred and eight (208) weeks. The one time only retraining incentive benefit awarded under this subsection may be collected semi-monthly as provided in KRS 342.040, by the employe while he continues to work in the mining industry. The retraining incentive benefit may be collected in a lump sum when the employe leaves his hazardous employment in the mining industry if the parties agree and the agreement is approved by the administrative law judge.

(b) If the administrative law judge finds that an employe has a radiographic classification of category 1/0, 1/1 or 1/2, based on the latest ILO International Classification of Radiographics, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, contained in the chapter on the respiratory system of the latest edition available of the guides to the evaluation of permanent impairment published by the American medical association, there shall be an irrebutable presumption that the employe has an occupational disability rating of seventy-five percent (75%) resulting from exposure to coal dust and the administrative law judge shall award an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage multiplied by the disability rating of seventy-five (75%) but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740. The award shall be payable for a period not to exceed four hundred and twenty-five (425) weeks.

(c) If the administrative law judge finds that an employe has a radiographic classification of category 1/0, 1/1 or 1/2, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, contained in the chapter on the respiratory system of the latest edition available of the guides to the evaluation of permanent impairment published by the American medical association, there shall be an irrebutable presumption that the employe is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits which shall be equal to sixty-six and two-thirds percent (66 2/3%) of the

employe's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined by KRS 342.740. Income benefits awarded under this subsection shall be payable to the employe during such disability.

(d) If the administrative law judge finds that an employe has occupational pneumoconiosis with a radiographic classification of category 2/1, 2/2, 2/3, 3/2, 3/3 or progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, there shall be an irrebutable presumption that the employe is totally disabled resulting from exposure to coal dust and the administrative law judge shall award income benefits equal to sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this subsection shall be payable to the employe during such disability.

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employe, the administrative law judge shall make its decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to such occupational pneumoconiosis. The evidence submitted by the employe shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by multiplying (103.5-.42) times the claimant's age at the time of the arterial blood gas study.

Section 58. KRS 342.770 is amended to read as follows:

(1) Upon the filing of a claim the *commissioner* [~~director~~] shall ascertain whether the employer, or any other person against whom a claim is filed and who is not exempt by KRS 342.630 or KRS 342.650, has secured payment of compensation by either securing insurance coverage or qualifying as a self insurer pursuant to KRS 342.340. Upon determination that any employer under this chapter has failed to comply with the provisions of KRS 342.340, the *commissioner* [~~director~~] shall record, as provided by subsection (2), a certificate prepared and furnished him by *the general counsel* [~~a representative of the uninsured employers' fund~~] showing the date on which such claim was filed, the date of the injury alleged, the name and last known address of the employer against whom it was filed, and the fact that the employer has not secured the payment of compensation as required. Upon recordation, such certificate constitutes a valid lien against the assets of the employer in favor of the uninsured employers' fund for the whole amount which may be due as compensation. Such lien shall be superior to the lien of any mortgage or other encumbrance thereafter created and shall continue for 10 years from the time of such recording unless sooner released or otherwise discharged. A copy of such certificate shall be served upon the employer by the *commissioner* [~~director~~].

(2) The certificate constituting a lien in favor of the uninsured employers' fund shall be filed in the following offices:

(a) The office of the county clerk of the county in which the defendant employer resides.

(b) The office of the county clerk of the county in which the defendant employer has its principal place of business.

(c) The office of the county clerk in the counties where such employers' property is located.

Section 59. KRS 342.780 is amended to read as follows:

A claimant may, in the original application for benefits, or any party may, by motion accompanied by proper allegations while the case is still pending, and the *administrative law judge* [~~board~~] shall, upon *his* [~~its~~] own motion at any time before the rendition of the final award, cause the uninsured employers' fund to be made a party to the proceedings if it should appear that the named defendant has failed to secure the payment of compensation as required by KRS 342.340.

Section 60. KRS 342.790 is amended to read as follows:

When an award is made against an employer who (1) has not secured payment of compensation by either securing insurance coverage or qualifying as a self insurer, and (2) has not made a deposit of security, indemnity or bond acceptable to the board to secure the payment of compensation liability and (3) has failed to make payment of compensation according to the terms of such award, the award shall constitute a liquidated claim for damages against such employer in an amount commuted to a lump sum which will equal the present value of the total sum of the probable future payments discounted at four percent (4%) true discount compounded annually on each payment, which amount is to be ascertained and fixed by the board, and the *commissioner* [~~director~~] shall certify the same to the *general counsel of the labor cabinet* [~~attorney general~~] who shall forthwith institute a civil action against such employer in the name of the *uninsured employers' fund* [~~state~~] for the collection of such award. In such action it shall be sufficient for plaintiff to set forth a copy of the award of the *administrative law judge* [~~board~~] relative to such claim as certified by the *commissioner* [~~director~~] and to state that there is due to plaintiff on such account of such opinion, order or award of the *administrative law judge* [~~board~~] a specified sum which plaintiff claims with interest. A certified copy of such award in such claim shall be attached to the complaint and constitutes prima facie evidence of the truth of the facts therein contained.

Section 61. KRS 351.175 is amended to read as follows:

(1) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, or lessee of each mine shall procure from the department a license to operate such a mine, and such license shall not be transferable. Any owner, operator, or lessee who assumes control of a mine, opens a new mine or reopens an abandoned mine during any calendar year shall procure such license before mining operations are begun.

(2) The license shall be in such printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(3) Requests for such license shall be made to the department and such requests shall be accompanied by a U.S. postal money order or cashier's check drawn in favor of the state treasurer in a reasonable amount established by regulations promulgated by the commissioner of a minimum of one hundred dollars ($100) and a maximum of one thousand dollars ($1,000). When the annual report of the operator and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the commissioner of *the department of workers' claims* [~~labor~~] that the applicant for license has presented positive proof of compliance with the provisions of KRS Chapter 342, are properly submitted to the department, the license shall be issued. The commissioner or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of *the department of workers' claims* [~~labor~~], or upon receipt of notice from the commissioner of revenue that the licensee is a "delinquent taxpayer", as defined in KRS Chapter 131, the department shall forthwith revoke any license hereunder issued. Revocation of said license shall be an administrative function of the department. Appeal of said administrative function shall lie in the Fayette Circuit Court.

(4) The mine inspector shall have the authority to stop production at the mine of any operator who fails to procure a license or fails to furnish a certification of compensation coverage as required under this section.

(5) The department shall be authorized to seek injunctive relief for any violation of this section.

(6) The application for a license shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the bureau of vehicle regulation attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges.

(7) A license which has been revoked under the "delinquent taxpayer" provision shall not be re-issued until a written tax clearance has been received from the commissioner of revenue.

(8) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the

governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

SECTION 62. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky workers' compensation advisory council which shall consist of sixteen (16) members appointed by the governor. Each member shall serve for a term of four (4) years and until his successor has been appointed and has qualified.

(2) Vacancies shall be filled by appointment of the governor for the unexpired term of the member whose office is vacant and shall be made within sixty (60) days of the occurrence of the vacancy.

(3) Annually, the governor shall designate one of the members to serve as chairman of the council. A majority of the members of the council shall constitute a quorum for the transaction of business.

(4) The council shall meet at least quarterly and on other occasions as may be necessary, on the call of the chairman or a majority of the members.

(5) The council shall be attached to the labor cabinet for administrative purposes, and the secretary of labor shall supply necessary staff and supplies to the council.

(6) The principal office of the council shall be located in Frankfort, Kentucky, but meetings of the council may be held at any location in the commonwealth of Kentucky.

(7) In making appointments to the council, the governor shall appoint eight (8) members representing labor and eight (8) members representing management.

(8) The council shall not infringe upon or assume the duties of the labor cabinet, commerce cabinet or the department of insurance. The council shall serve in an advisory capacity and shall make recommendations to the governor and the legislature on all matters relating to workers' compensation including, but not limited to: efficient administration; coverage of employers and employes; adequacy and delivery of the benefit structure; insurance and self-insurance; medical cost containment and medical services; rehabilitation; liability and financing of the special fund; attorney fees; and lump-sum compensation and settlement procedures. In addition, the council may recommend legislation and administrative regulations as it deems necessary.

Section 63. KRS 342.715 is amended to read as follows:

Notwithstanding the provisions of KRS 342.730, during the period the employe is eligible for permanent total disability benefits and is actively participating in a vocational or physical rehabilitation program, pursuant to a *an* [~~board~~] order *of the administrative law judge*, the employe's benefits shall be calculated by taking eighty percent (80%) of his average weekly wage, but not more than one hundred percent (100%) of the state's average weekly wage, times the percentage of disability as determined in this chapter.

SECTION 64. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky workers' compensation funding commission is created as an agency of the Commonwealth for the public purpose of controlling, investing, and managing the funds collected pursuant to Section 13 of this Act.

(2) The commission shall:

(a) Hold, administer, invest and reinvest the funds collected pursuant to Section 13 of this Act and its other funds in accordance separate and apart from all "state funds" or "public funds" as defined in KRS Chapter 446.

(b) Act as a fiduciary, as defined in KRS chapter 386, in exercising its power over the funds collected pursuant to Section 13 of this Act, and may invest association funds through one or more banks, trust companies, or other financial institutions with offices in Kentucky in good standing with the department of financial institutions, in investments described in KRS Chapter 386. Provided, however, the commission shall not invest any of the funds collected pursuant to Section 13 of this Act in any corporation, company, partnership or other business entity, or any bank, investment service firm or other financial entity which directly or indirectly maintains operations or has financial dealings with the Republic of South Africa.

(c) Report to the general assembly at each regular session the actuarial soundness and adequacy of the funding mechanism for the special fund and other programs supported by such mechanism, including detailed information on the investment of funds and yields thereon; and

(d) Recommend to the general assembly not later than October 31 of the year prior to each regular legislative session changes deemed necessary in the level of the assessments imposed in Section 13 of this Act; and

(e) Submit to the general assembly not later than October 31 of the year prior to each regular legislative session a proposed budget for the biennium beginning July 1 following the regular session of the general assembly; and

(f) Provide to the interim joint committee on appropriations and revenue an annual budget and detailed quarterly financial reports; and

(g) Conduct periodic audits independently or in cooperation with the labor cabinet or the revenue cabinet of all entities subject to the assessments imposed in Section 13 of this Act.

(3) The commission shall have all of the powers necessary or convenient to carry out and effectuate the purposes for which it was established including, but not limited to the power:

(a) To sue and be sued, complain or defend, in its name;

(b) To elect, appoint or hire officers, agents and employes, and define their duties and fix their compensation within the limits of its budget approved by the general assembly;

(c) To contract for investment counseling, legal, actuarial, auditing, and other professional services in accordance with the provisions relating to personal service contracts contained in KRS Chapter 45;

(d) To appoint, hire, and contract with banks, trust companies, and other entities to serve as depositories and custodians of its investment receipts and other funds;

(e) To take any and all other actions consistent with the purposes of the commission and the provisions of this Act.

(4) The commission shall be attached to the revenue cabinet for administrative purposes only.

SECTION 65. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall be governed by a board of directors consisting of seventeen (17) members. The seventeen (17) members shall include the secretary of the labor cabinet, the secretary of the commerce cabinet, the secretary of the revenue cabinet, and fourteen (14) members who shall be appointed by the governor.

(2) The fourteen (14) appointed members shall include:

(a) Three (3) members, selected from a list of six (6) submitted by the secretary of labor, who shall represent labor;

(b) Three (3) members, selected from a list of six (6) submitted by the secretary of commerce, who shall represent employers provided, however, that these three members shall represent employers who purchase workers' compensation coverage for their employes from insurance companies writing workers' compensation insurance in the Commonwealth; and

(c) Four (4) members, selected from a list of eight (8) submitted by the insurance advisory organization having jurisdiction over Kentucky, who shall represent insurance companies writing workers' compensation insurance in the Commonwealth provided, however, that at least one (1) such member shall be a resident of Kentucky and not more than one (1) member shall be an insurance agent; and

(d) Two (2) members, selected from a list of four (4) submitted by the association representing self-insured employers in the state, who shall represent self-insured employers operating under KRS Chapter 342; and

(e) Two (2) members, selected from a list of four (4) submitted by the association representing self-insured employers in the state, who shall represent self-insurance groups in the Commonwealth.

(3) The members of the board of directors shall serve a term of four (4) years except that the initial terms of the members shall be staggered as follows:

(a) The three (3) initial members appointed by the governor to represent labor shall serve terms of one (1) year, two (2) years and three (3) years, respectively. Thereafter, each member shall serve a term of four (4) years; and,

(b) The three (3) initial members appointed by the governor to represent employers shall serve terms of one (1) year, two (2) years, and three (3) years, respectively. Thereafter, each member shall serve a term of four (4) years; and,

(c) The four (4) initial members appointed by the governor to represent insurance companies shall serve terms of one (1) year, two (2) years, three (3) years, and four (4) years respectively. Thereafter, each member shall serve a term of four (4) years; and

(d) The two (2) initial members appointed by the governor to represent self-insured employers shall serve terms of one (1) year and three (3) years, respectively, and the two (2) initial members appointed by the governor to represent self-insurance groups shall serve terms of one (1) year and three (3) years, respectively. Thereafter, each member shall serve a term of four (4) years.

(3) The board of directors shall annually elect from among its members a chairman, a vice chairman, and a secretary-treasurer. The board of directors may also elect or appoint, and prescribe the duties of, other officers as the board of directors deems necessary or advisable.

(4) The board of directors shall appoint an executive director to administer, manage, and direct the affairs and business of the commission, and other staff persons to carry out the affairs and business of the commission, subject in each instance to the policies, control, and directions of the board of directors. The board of directors shall fix the compensation of all such persons and shall pay such compensation out of the funds of the commission.

(5) Notwithstanding any other law, the governor, pursuant to an executive order, may cause the employes of the commission to be eligible to participate in the Kentucky retirement system and the Kentucky public employes deferred compensation system.

(6) A majority of the board of directors of the commission shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. The majority shall be determined by excluding any existing vacancies from the total number of directors.

SECTION 66. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The Kentucky workers' compensation funding commission shall not be subject to the governor's power of reorganization under KRS Chapter 12. The governor may, however, recommend changes in the organization of the commission to the general assembly at any regular or special session of the general assembly.

SECTION 67. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

Funds which are under the jurisdiction of the Commission shall not:

(1) Be loaned to the Commonwealth or any instrumentality or agency thereof;

(2) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for purposes specifically authorized by this Act;

(3) Be expended for any other purpose than one authorized by this Act.

SECTION 68. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The board of directors shall require the commission to engage a certified public accountant or a firm of certified public accountants to conduct an annual examination of the commission's financial statements, conditions, transactions, and affairs in accordance with generally accepted auditing standards for the purpose of submitting an independent opinion, and preparing a report of findings and recommendations concerning the commission's internal accounting controls and procedures. The opinions and reports of the accountants shall

be forwarded annually to the governor and auditor of public accounts. Notwithstanding any other provision of this chapter, the auditor of public accounts shall have access to and may examine all books, accounts, reports, vouchers, correspondence files, records, money, and property of the commission and may otherwise exercise all powers of his office under KRS Chapter 43 with respect to the association.

SECTION 69. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The special fund and the funding commission shall at all times furnish each other access to any and all books, records, documents, and information necessary or desirable in order to allow the other to perform its duties under this chapter.

SECTION 70. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The benefit reserve fund is hereby established within the commission, and shall be administered by the commission. All funds in excess of current liabilities of the special fund and budgeted expenditures shall be deposited in the benefit reserve fund and invested in compliance with the investment policies formulated by the commission.

SECTION 71. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) All funds collected by insurance companies from their insureds, prior to the effective date of this Act, for assessments of the Kentucky reinsurance association or special fund taxes and assessments of the Kentucky revenue cabinet not previously paid, shall be paid in full within thirty (30) days from the effective date of this Act to the Kentucky workers' compensation funding commission.

(2) To ensure compliance with the provisions of subsection (1) of this section, the revenue cabinet shall conduct audits of all insurance companies. The costs of such audits shall be borne by the Kentucky workers' compensation funding commission. The revenue cabinet may enter an agreement with the insurance department for assistance in conducting such audits or it may hire additional auditors on a temporary basis. The audits shall commence within sixty (60) days from the effective date of this Act and shall be completed within six (6) months. The aggregate findings of such audits shall be presented to the secretary of revenue, the commissioner of insurance, the Kentucky workers' compensation funding commission and the governor.

(3) If the audits reveal noncompliance with subsection (1) of this section, the revenue cabinet shall notify the affected party of such fact. The affected party shall remit the amount in question not later than thirty (30) days following notification and the revenue cabinet shall institute a civil action in Franklin circuit court if remittance is not made within such thirty (30) day period.

(4) The failure of an insurance company to comply with the provisions of this section shall constitute grounds for the revocation by the commissioner of insurance of such entity's authority to write workers' compensation coverage in the Commonwealth.

(5) The revenue cabinet shall report to the commissioner of insurance the failure of any insurance company to comply with the provisions of this section and the commissioner shall institute revocation procedures of such entity's authority to write workers' compensation coverage in the Commonwealth.

(6) "Funds collected" as used in subsection (1) of this section shall mean all funds collected without reduction for credits, refund or returns of any type made to insureds or group members after September 1, 1987.

Section 72. KRS 342.990 is amended to read as follows:

(1) The commissioner, on behalf of the workers' compensation board, shall initiate enforcement of civil and criminal penalties imposed in this section.

(2) When the commissioner receives information that he deems sufficient to determine that a violation of this chapter has occurred, he shall seek civil penalties pursuant to subsections (3) through (8) of this section, or criminal penalties pursuant to subsections (9) and (10) of this section, or both.

(3) The commissioner, on behalf of the board, shall initiate enforcement of a civil penalty by simultaneously citing the appropriate party for the offense and stating the civil penalty to be paid.

(4) If within fifteen (15) working days from the receipt of the citation a cited party fails to notify the commissioner that he intends to contest the citation, then the citation shall be deemed final.

(5) If a cited party notifies the commissioner that he intends to challenge a citation issued under this section, the commissioner shall cause the matter to be heard as soon as practicable by an administrative law judge. The administrative law judge shall issue a ruling thereon within fifteen (15) days of the hearing.

(6) A cited party may appeal the ruling of the administrative law judge within fifteen (15) days following the issuance of the ruling. The appeal shall be made in writing to the workers' compensation board, and the board, through the commissioner, shall as soon as practicable, schedule the matter for hearing. The board shall issue a ruling on the matter within thirty (30) days of the hearing.

(7) An appeal of the ruling of the board on civil penalties imposed in this chapter shall be to the Court of Appeals.

(8) The following civil penalties shall be applicable for violations of particular provisions of this chapter:

(a)[~~(1)~~] Any employer subject to this chapter, who *fails* [~~refuses or willfully neglects~~] to make the report required by KRS 342.038, *within fifteen (15) days from the date it was due,* shall be fined not *less than one hundred dollars ($100) nor* more than *one thousand dollars ($1,000)* [~~twenty-five dollars ($25)~~] for each offense.

(b)[~~(2)~~] Any person who violates KRS 342.040, 342.335, *342.400, 342.420, or* 342.630 [~~342.197~~] shall be fined not less than *one hundred dollars ($100)* [~~fifty dollars ($50)~~] nor more than *one thousand dollars ($1,000) for each offense* [~~five hundred dollars ($500) or imprisoned for not less than ten (10) days nor more than ninety (90) days.~~

~~(3) Any person who violates subsection (2) of KRS 342.400 shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) or imprisoned for not less than ten (10) days nor more than ninety (90) days.~~

~~(4) Any employer who violates KRS 342.420 shall be fined not more than one hundred dollars ($100) for each offense~~].

(c)[~~(5)~~] Any person who violates any of the provisions of KRS *342.460, 342.465 or 342.470* [~~342.445 to 342.475~~] shall be fined not less than *two hundred dollars ($200)* [~~one hundred dollars ($100)~~] nor more than *two thousand dollars ($2,000) for each offense* [~~one thousand dollars ($1,000) or imprisoned for not less than ten (10) days nor more than ninety (90) days, or both~~].

(9) The commissioner shall initiate enforcement of a criminal penalty by causing a complaint to be filed with the appropriate local prosecutor. If the prosecutor fails to act on the violation within twenty (20) days following the filing of the complaint, the commissioner, on behalf of the board, shall certify such inaction by the local prosecutor to the attorney general who shall initiate proceedings to prosecute the violation. The provisions of KRS 15.715 shall not apply to this section.

(10) The following criminal penalties shall be applicable for violations of particular provisions of this chapter:

(a) Any person who violates KRS 342.040, 342.335, 342.400, 342.420, or 342.630, shall, for each offense, be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.

(b) Any person who violates any of the provisions of KRS 342.460, 342.465 or 342.470 shall, for each offense, be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.

(11) Fines paid pursuant to subsections (8) and (10) of this section shall be paid into the special fund.

Section 73. On the effective date of this Act, the following sections of the Kentucky Revised Statutes are hereby repealed: KRS 342.123 Creation of Kentucky reinsurance association—board of directors—payment of premiums and assessments by subscribers—KRS 342.255—Hearing, how held—What deemed order of board—KRS 342.490—Board not to incur expense exceeding appropriation—KRS 342.760—Uninsured employers fund.

On October 31, 1987, the following sections of the Kentucky Revised Statutes are hereby repealed:

KRS 342.440—Fund for administration—KRS 342.445 Definitions—Insurance carrier to pay tax premiums—KRS 342.450—Insurance premium tax—Additional assessments—Annual return of insurance carrier—Amount of tax on premiums—KRS 342.455—Procedure if insurance carrier fails to make return—KRS 342.475 Employer carrying own risk to pay maintenance fund tax—KRS 342.480—Maintenance fund—Use—Not to lapse—Publication of proceedings.

SECTION 74. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

On the effective date of this Act, the liabilities of the uninsured employers' fund its equipment, records and its assets remaining in the state treasury shall be transferred to the uninsured employers' fund created within the labor cabinet's office of general counsel pursuant to this Act.

SECTION 75. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

As the constitution of the Commonwealth of Kentucky requires that funds collected for a specific purpose by a public entity be expended only for such public purpose, the general assembly does hereby transfer, within sixty (60) days following the effective date of this Act, the liabilities and all funds, records, and property, in the possession of the Kentucky reinsurance association to the Kentucky workers' compensation funding commission.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Thursday, October 15, 1987.

On the roll call the vote was yeas 78—Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blevins, J. Brown, M. Brown, Burch, Burnette, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, Hatcher, Jackson, Johnson, A. Jones, T. Jones, Kerr, Layman, Lear, Lefevers, Lile, Little, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Napier, Nett, Noe, Noland, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, Ridley, Riner, Robinson, Scorsone, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 4—Deskins, Keith, Overstreet, P. Richardson.

The motion to adjourn was adopted.

THURSDAY, OCTOBER 15, 1987

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend William Smith, First Church of the Nazarene, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Deskins.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of October 14, 1987, be dispensed with and the same approved. Agreed.

Introduction of Resolutions

HR 4, by Representatives Callahan, Donnermeyer, Kerr, K. Harper, Walker, Meyer, Crupper, McBee, and Reinhardt: A RESOLUTION adjourning the House of Representatives in honor of Clyde Bishop of Newport, Kentucky.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 2** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 2, AN ACT making an appropriation to the Legislative Research Commission for expenses incurred in connection with the Extraordinary Session of 1987 of the General Assembly, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. That there be appropriated from the General Expenditure Fund to the Legislative Sessions Fund, for the payment of salaries and other expenses of the Extraordinary Session of 1987 of the General Assembly, the sum of $25,814 per calendar day during the Extraordinary Session of 1987.

Section 2. That there be appropriated from the General Expenditure Fund to the Legislative Research Commission the sum of $6,000 per calendar day during the Extraordinary Session of 1987.

Section 3. That there be transferred from the Monthly Expenses of Legislators' Account to the Legislative Sessions Fund the amount of $4,416 per calendar day of the Extraordinary Session of 1987 to be used for necessary expenses during such extraordinary session.

Section 4. That there be appropriated from the General Expenditure Fund to the Legislative Sessions Fund the sum of $15,000 to pay for the cost of printing and binding the Acts and Journals of the Extraordinary Session of 1987.

Section 5. That there be appropriated from the General Expenditure Fund to the Legislative Sessions Fund the sum of $26,000 to pay the cost of travel and stationery allowances for the Extraordinary Session of 1987.

Section 6. Whereas, the General Assembly is now in session, and it is necessary that funds be made available immediately, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor, and shall be retroactive to include all calendar days of the Extraordinary Session of 1987, beginning October, 14, 1987.

Calendar

HB 1 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for a report of Committees. Agreed.

Report of Committees

The Committee on Rules reported **HB 1** has been recommitted to the Committee on Labor and Industry.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 3, by Representatives Morris and Bruce: AN ACT relating to workers' compensation insurance.

HR 5, by Representatives Blandford, Richards, Worthington, Stumbo, LeMaster, Gedling, Barrows, Farrow, and Long: A RESOLUTION adjourning the House of Representatives in memory of Representative Gerta Bendl.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved that a call of the roll be taken to show co-sponsors of **HR 5**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 5**: Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Burnette, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

Representative Stumbo moved the adoption of the following **HR 5**:

HR 5, A RESOLUTION adjourning the House of Representatives in memory of Representative Gerta Bendl.

WHEREAS, Gerta Bendl served in the House of Representatives from 1976 to 1987 and was the first woman to serve as chair of a standing committee in the history of the Kentucky General Assembly; and

WHEREAS, Representative Bendl was solely responsible for the passage of legislation which improved conditions in Kentucky's nursing homes, provided supportive services to senior citizens in their own homes, strengthened the rights of residents of long-term care facilities, increased funding for services to alleviate child abuse and spouse abuse, and improved advocacy for mentally ill and mentally retarded citizens in Kentucky; and

WHEREAS, the voice of Gerta Bendl rang loudest in support of the rights of the young, the elderly, the indigent, the disabled, and any citizen in need; and

WHEREAS, through her commitment to unpopular causes for the forgotten citizens of this Commonwealth, Gerta Bendl exhibited exceptional courage that was testimony to her goal of elevating the human dignity of all Kentuckians; and

WHEREAS, the passion, the dedication, the intelligence, and the social consciousness that Gerta Bendl brought to this honorable body will never be forgotten;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Thursday, October 15, 1987, it does so in memory of Representative Gerta Bendl.

Section 2. That a copy of this resolution be transmitted to the family of Representative Bendl.

HR 5 was adopted by voice vote.

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Callahan moved that a call of the roll be taken to show co-sponsors of **HR 4**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 4**: Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, J. Brown, M. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Cowan, Curd, Cyrus, Donnermeyer, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lundergan, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noland, O'Brien, Preston, Priddy, Pritchett, Reinhardt, Richards, B. Richardson, Ridley, Riner, Robinson, Siler, B. Smith, R. Smith, Strong, Todd, Turner, Walker, White, Worthington, Yates.

Representative Callahan moved the adoption of the following **HR 4**:

HR 4, A RESOLUTION adjourning the House of Representatives in honor of Clyde Bishop of Newport, Kentucky.

WHEREAS, Clyde Bishop of Newport, Kentucky has been a dedicated public servant for 34 years, diligently working for the Newport Police Department, retiring at the rank of Lt. Colonel and Chief of the Detective Division; and

WHEREAS, Clyde Bishop has been an active member of the Fraternal Order of Police, an organization committed to improving working conditions and benefits for policemen; and

WHEREAS, 1987 was the first year the National Fraternal Order of Police held a competition to determine a recipient for "National F.O.P. Man of the Year" award; and

WHEREAS, Clyde Bishop was bestowed the prestigious Jack Duddek F.O.P. Man of the Year award on August 5th in Mobile, Alabama at the national convention of the Fraternal Order of Police; and

WHEREAS, Clyde Bishop was selected from the 189,000 F.O.P. membership for his many years of tireless service on the legislative committee of the State F.O.P.—fighting for improved pension and salary benefits in the halls of the State Capitol; and

WHEREAS, Clyde Bishop is a loving husband and devoted father of two; and

WHEREAS, Clyde Bishop has been an active participant in civic and community organizations throughout the Northern Kentucky area;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House proudly honors and commends Clyde Bishop of Newport, Kentucky upon the occasion of being named the "F.O.P. Man of the Year".

Section 2. That this honorable body hails Clyde Bishop as an outstanding citizen and exemplary representative of the Commonwealth and lauds the unselfish efforts of one of Kentucky's native sons.

Section 3. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Thursday, October 15, 1987, it does so in honor of Clyde Bishop.

Section 4. That the Clerk of the House is hereby directed to transmit a copy of this resolution to Clyde Bishop, 1159 Waterworks Road, Newport, Kentucky, and to the National Fraternal Order of Police, 2100 Gardiner Lane, Louisville, Kentucky; and to the Newport Fraternal Order of Police, Lodge No. 2.

HR 4 was adopted by voice vote.

Representative Gray moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Gray moved the adoption of the following Legislative Citation No. 1:

The House of Representatives of the Commonwealth of Kentucky hereby salutes the Marshall County High School Marching Band and its director, Steve Martin, for the exceptional talent and determination reflected in their selection to perform in this year's Fiesta Bowl Parade and as one of eight American high school bands chosen to compete January 29 in the National Pageant of Bands. The House is confident that this outstanding organization will represent Kentucky proudly. (Sponsored by Representative Gray)

Agreed.

Representative Johnson moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Johnson moved the adoption of the following Legislative Citation No. 2:

The House of Representatives of the Commonwealth of Kentucky hereby salutes University of Kentucky tailback Mark Higgs, recently named co-Southeastern Conference Offensive Player of the Week, as well as United Press International Southeastern Back of the Week, and wishes him continued success in his every endeavor. (Sponsored by Representative Johnson)

Agreed.

Announcements

The following meetings were announced:

Committee on Labor and Industry: One and one-half hours after adjournment.

Minority Caucus: Friday, October 16, 1987, one hour prior to session.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Friday, October 16, 1987.

On the roll call the vote was yeas 57—Ackerson, Adkins, Allen, Ark, Arnold, Barrows, Blandford, Blevins, Bronger, M. Brown, Burch, Burnette, Callahan, L. Clark, P. Clark, Clarke, Crupper, Curd, Cyrus, Ford, Freibert, Gedling, Gray, Guenthner, Handy, K. Harper, Hatcher, Jackson, Johnson, T. Jones, Kerr, Layman, Lear, Lefevers, LeMaster, Little, Long, Lyne, Mack, Maggard, McElroy, Meyer, Moberly, Napier, Nett, Rapier, Reinhardt, Richards, Riner, B. Smith, Stumbo, Todd, Turner, White, Will, Worthington, Yates. Nays 27—Adams, Altman, Ballard, J. Brown, Casebier, Castleman, Donnermeyer, Gregory, Hancock, J. Harper, Heleringer, A. Jones, Keith, Lundergan, Mason, McBee, Noe, Overstreet, Pritchett, B. Richardson, P. Richardson, Ridley, Scorsone, Seum, R. Smith, Strong, Walker.

The motion to adjourn was adopted.

FRIDAY, OCTOBER 16, 1987

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Burch, Cline, Johnson, Little, McBee, Preston, B. Richardson, and Scorsone.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of October 15, 1987, be dispensed with and the same approved. Agreed.

Introduction of Resolutions

HR 6, by Representatives Blandford, Worthington, Stumbo, Richards, and Rapier: A RESOLUTION adjourning the House of Representatives in memory of Welby C. Hoover.

References of Bills

The Clerk reported the Committee on Committees has referred the following Bill:

Labor and Industry: **HB 3**.

Report of Committees

The Committee on Labor and Industry reported **HB 1**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

Committee Amendment No. 1 to **HB 1** is as follows:

Amend printed copy of **HB 1** on page 95, by deleting Section 55 in its entirety;

And on page 125, line 11 by deleting "KRS 342.760—Uninsured employers fund.";

And on pages 125 and 126 by deleting Section 74 in its entirety and inserting in lieu thereof the following:

"Section 74. KRS 342.760 is amended to read as follows: (1) There is hereby authorized in the *labor cabinet* [~~state treasury~~] an uninsured employers' fund for the purpose of making payments in accordance with the provisions of subsection (4) of this section. The *secretary of the labor cabinet* [~~state treasurer~~] shall be the custodian of the fund and all moneys and securities in the fund shall be held in trust by the *secretary of the labor cabinet* [~~state treasurer~~] and shall not be considered a part of the general funds of the state.

(2) The *secretary of the labor cabinet* [~~state treasurer~~] is authorized to disburse moneys from the fund only upon written order of *the administrative law judge or* the board.

(3) All amounts collected as fines and penalties under this chapter shall be paid into the uninsured employers' fund. [~~There shall initially be transferred to the fund from the maintenance fund beginning January 1, 1973, the sum of one hundred thousand dollars ($100,000)~~].

(4) [~~Upon the action taken in subsection (3) of this section~~] The uninsured employers' fund [~~will become~~

~~operative, compensation thereafter~~] shall be *responsible for the payment of compensation* [~~paid from it~~] when there has been default in the payment of compensation due to the failure of an employer to secure payment of compensation as provided by this chapter. Such employer shall be liable for payment into the fund of the amounts authorized to be paid therefrom under the authority of this subsection and for the purposes of enforcing this liability the *labor cabinet* [~~board~~], for the benefit of the fund, shall be subrogated to all the rights of the person receiving such compensation *from the fund.*

(5) In furtherance of this purpose, the attorney general shall appoint a member or members of his staff or special counsel to represent the fund in all proceedings brought to enforce claims against or on behalf of the fund. Necessary expenses for this purpose including salaries of said staff or special counsel shall be borne by the fund. The *labor cabinet* [~~attorney general's office~~] shall be responsible for the administration of the uninsured employers' fund and shall be charged with the conservation of the assets of the fund.

(6) *On the effective date of this section, the liabilities of the uninsured employers' fund and its assets remaining in the state treasury shall be transferred to the uninsured employers' fund created within the labor cabinet pursuant to this section.* [~~If at any time the assets of the uninsured employers' fund fall below fifty thousand dollars ($50,000), the board, with approval of the secretary of the executive department for finance and administration and commissioner of labor, may transfer sufficient moneys from the maintenance fund to the uninsured employers' fund in order to honor claims filed against said uninsured employers' fund and to provide for the administration of the fund.~~]

And by renumbering the sections and in-text references after Section 54.

Committee Amendment No. 2 to **HB 1** is as follows:

Amend printed copy of **HB 1** on page 17, between lines 25 and 26, by inserting the following:

"*(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subsection, cities, counties, urban counties and special districts shall not pay assessments, but shall reimburse the special fund quarterly for any claims paid by the special fund to beneficiaries from that jurisdiction.*"

Committee Amendment No. 3 to **HB 1** is as follows:

Amend printed copy of **HB 1** on page 3, line 1, by deleting the word "*non-working*";

And on page 3, lines 2 and 3, by deleting the following: "*not engaged in construction work or in the severance or processing of coal*";

And on page 3, line 6, by deleting the word "*non-working*";

And on page 3, line 11, by deleting the words "*and working partners*";

And on page 3, between lines 12 and 13, to insert the following:

"*(2) For the purposes of this chapter, in order to reject coverage under this chapter, a working partner shall belong to a bona fide working partnership.*

(3) For the purposes of this chapter, all organizations claiming status as a bona fide working partnership shall, when formed, submit evidence to the labor cabinet, on forms provided by the labor cabinet, in support of the claim of that status. Annually, all organizations claiming status as a bona fide working partnership shall submit evidence to the labor cabinet, on forms provided by the labor cabinet, in support of the claim of that status. In the event that a determination cannot be made by the labor cabinet based upon the submissions on the claim of working partnership form, the cabinet may require additional information to be submitted in writing.

(4) An organization claiming to be a bona fide working partnership shall be denied status as a bona fide working partnership by the labor cabinet if:

(a) A majority of the working partners receive a salary for their labor on behalf of the partnership; or

(b) A majority of the working partners receive a salary and a very minimal share of the profits of the partnership even though they engage in regular labor on behalf of the partnership; or

(c) A majority of the working partners, even if receiving no salary, receive a very minimal share of the profits of the partnership even though the working partners engage in regular labor on behalf of the partnership.

(5) Any person taken into the partnership following the approval of a bona fide working partnership shall be deemed an employe, for the purposes of this chapter, if he receives a salary, irrespective of profits from such partnership, or receives a very minimal share of the profits of the partnership in exchange for his labor on behalf of the partnership."

And on line 13 by placing brackets and strikethroughs around "(2)" and inserting in lieu thereof "*(6)*";

And on page 3, line 13, by deleting the word "*non-working*";

And on page 3, by deleting lines 17 through 21 in their entirety;

And beginning on page 87, line 24, and ending on page 89, line 19, by deleting all of such Section 52 in its entirety;

And on page 123, between lines 8 and 9, to insert the following:

"*(b) Any partnership that fails to make the report required by KRS 342.012(3), within fifteen (15) days from the date it was due, shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.*"

And on page 123, line 9, by deleting "*(b)*" and inserting "*(c)*" in lieu thereof;

And on page 123, line 23, by deleting "*(c)*" and inserting "*(d)*" in lieu thereof;

And on page 124, between lines 3 and 4, to insert the following:

"*(e) Any person who makes a false submission of a report in violation of KRS 342.012(3) shall, for each offense, be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000) for each offense.*"

And on page 125, between lines 1 and 2, to insert the following:

"*(c) Any person who makes a false submission of a report in violation of KRS 342.012(3) shall, for each offense, be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both.*"

And by renumbering the sections following Section 51 and appropriate in-text references.

Committee Amendment No. 4 to **HB 1** is as follows:

Amend printed copy of **HB 1** on page lll, after line 6 and before line 7 by inserting:

"*(9) Any insurer authorized to write a policy of workers' compensation insurance shall transmit the following information on its workers' compensation experience only to the department of insurance and the council each year and such information shall be certified and reported on a net basis with respect to reinsurance for nationwide experience and direct basis with respect to Kentucky experience:*

(a) Direct premiums written;

(b) Direct premiums earned;

(c) Dividends paid or credited to policyholders;

(d) Losses paid;

(e) Allocated loss adjustment expenses;

(f) The ratio of allocated loss adjustment expenses to losses paid;

(g) Unallocated loss adjustment expenses;

(h) The ratio of unallocated loss adjustment expenses to losses paid;

(i) The total of losses paid and unallocated and allocated loss adjustment expenses;

(j) The ratio of losses paid and unallocated and allocated loss adjustment expenses to premiums earned;

(k) The number of claims outstanding as of December 31 of each year;

(l) The total amount of losses unpaid as of December 31 of each year;

(m) The total amount of allocated and unallocated loss adjustment expenses unpaid as of December 31 of each year;

(n) The total of losses paid and allocated loss adjustment expenses and unallocated loss adjustment expenses, plus the total of losses unpaid as of December 31 of each year and loss adjustment expenses unpaid as of December 31 of each year; and

(o) Net investment gain or loss.

(10)(a) The first report of the information required in subsection (9) of this section shall include the information for the year ending December 31, 1987. Such report shall be filed no later than August 1, 1988. Beginning with the report for the period ending December 31, 1989, all future reports shall have all information required by subsection (9) of this section broken down by year for the current and two (2) preceding years.

(b) Within thirty (30) days after March 1, 1989, the department of insurance shall commence a review of the rates of all workers' compensation insurers in effect at the time. If, after the review, the department finds on a preliminary basis that the rate may be excessive, inadequate, or unfairly discriminatory, the department shall so notify the insurer. Upon being so notified, the filer shall within sixty (60) days file with the department all information which the filer believes proves the reasonableness, adequacy, and fairness of the rate. In such instances, the filer shall carry the burden of proof. In the event the department finds that a rate is excessive, inadequate, or unfairly discriminatory, the department shall order that a new rate schedule be thereafter filed by the filer and shall further specify the manner in which noncompliance shall be corrected."

Committee Amendment No. 5 to **HB 1** is as follows:

Amend printed copy of **HB 1** on page 35, line 25, by deleting the following:

", *who shall be elected by their fellow members of the bar and*"

And inserting in lieu thereof:

"*appointed by the president of the bar,*"

And on page 36, line 2, by deleting the word "*elected*" and inserting in lieu thereof the word "*appointed*"

And on page 36, line 18, by deleting the words "*or elections*"

And on page 36, line 20, by deleting lines 20 and 21 in their entirety

Calendar

HB 2 taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Report of Committees. Agreed.

Report of Committees

The Committee on Rules reported **HB 1**, with Committee Amendments attached thereto, and **HB 2** have been posted for passage in Orders of the Day, October 19, 1987.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 8, by Representatives White, Stumbo, Bruce, Blevins, Lefevers, Noland, Siler, and Keith: A RESOLUTION relating to small coal mine operators.

Representative White moved that the rules be suspended to allow the reading of **HR 8** in its entirety. Agreed.

Representative White moved the adoption of the following **HR 8**:

HR 8, A RESOLUTION relating to small coal mine operators.

WHEREAS, many small coal mine operators have been forced to go out of business because of oppressive federal Office of Surface Mining (OSM) regulations; and

WHEREAS, certain provisions of the federal surface coal mine law and their interpretation and enforcement by OSM have brought about an increase in Kentucky's welfare recipients; and

WHEREAS, this loss of gainful employment has lowered the self-esteem of many Kentuckians living in coal-producing counties and has caused them much emotional stress; and

WHEREAS, an episode of the television program "Sixty Minutes" very ably depicted the intolerable position the federal surface coal mining law and regulations have placed the Hardly Able Coal Company and other small coal mine operators;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That federal and state authorities review the laws and regulations controlling coal mining with the goal of providing flexibility in the laws and regulations which will not be destructive of local economies.

Section 2. That copies of this resolution be sent to President Reagan, the Secretary of the Interior, the Director of OSM, and the Secretary of the Kentucky Natural Resources and Environmental Protection Cabinet.

HR 8 was adopted by voice vote.

Representative White moved that a call of the roll be taken to show co-sponsors of **HR 8**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 8**: Adams, Adkins, Arnold, Blandford, Blevins, Bronger, J. Brown, M. Brown, L. Clark, P. Clark, Clarke, Cyrus, Deskins, Donnermeyer, Ford, Gedling, Guenthner, Hancock, J. Harper, K. Harper, Hoover, Jackson, A. Jones, Keith, Lefevers, Lyne, Maggard, Mason, McElroy, Meyer, Napier, Noe, Noland, Reinhardt, Richards, P. Richardson, Riner, Robinson, Siler, B. Smith, R. Smith, Strong, Todd, Turner, White, Worthington, Yates.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 7, by Representatives Blevins, Worthington, and Adkins: A RESOLUTION expressing wishes for a speedy recovery for Coach Bill Baldridge.

Representative Blevins moved the adoption of the following **HR 7**:

HR 7, A RESOLUTION expressing wishes for a speedy recovery for Coach Bill Baldridge.

WHEREAS, Morehead State University football coach Bill Baldridge was recently hospitalized in Nashville, Tennessee; and

WHEREAS, Coach Baldridge's colleagues and friends are pleased to hear that he is progressing very well;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body extends its wishes for Coach Baldridge's speedy recovery.

Section 2. That a copy of this resolution be sent to Coach Baldridge's home, where he is expected to be soon, at 5 Circle Drive, Morehead, Kentucky, 40351.

HR 7 was adopted by voice vote.

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it do so until the hour of 11:00 a.m., Monday, October 19, 1987. Agreed.

Representative Stumbo moved that no further business be conducted on this day except the filing of Floor Amendments, entertaining motions to recess and motion for adjournment. Agreed.

Recess

Representative Stumbo moved that the House recess until the hour of 6:30 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Recess

Representative Stumbo moved that the House recess until the hour of 8:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Recess

Representative Stumbo moved that the House recess until 12:00 p.m. Agreed.

At the appointed hour the Speaker resumed the Chair and called the House to order.

The following Floor Amendments were filed during the Session to **HB 1**:

Floor Amendment No. 1 to **HB 1**, by Representative Clarke:

Amend printed copy of **HB 1** on page 17, line 13, by deleting the words "*at the rate of forty percent (40%)*",

line 14, by deleting the words "*upon the amount of workers' compensation*",

lines 15 through 25, by deleting lines 15 through 25 in their entirety, and by inserting in their place, the following: *on ever taxpayer engaged in severing and/or processing coal within this Commonwealth at the rate*

of one percent (1%) of the gross value of all coal severed and/or processed during the reporting period, effective for all reporting periods beginning after October 31, 1987. The assessment shall be reported on the same form and paid in the same manner as the tax imposed under the provisions of KRS Chapter 143. The assessment shall be paid to the revenue cabinet, which shall deposit the funds collected to the credit of the benefit reserve fund within the Kentucky workers' compensation funding commission. The terms "coal", "severed", "severing", "taxpayer", "gross value", "reporting period" and "processing", and any other terms applicable to the administration of the provisions of this paragraph shall mean the same as such terms defined in KRS 143.010. Sections KRS 143.035, 143.040, 143.050, 143.060, 143.070 and 143.080 which are applicable to the administration of the provisions of this paragraph, are hereby adopted.

(c) Any taxpayer who fails to file required returns or remit the assessment due under paragraph (b) of this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months, or both.

Page 19, line 12, by inserting after the subsection number "(3)" the word *The*, by bracketing and striking through the word "All", by inserting after the bracket following the word ~~and~~ the words, *assessment provided for in*, and by bracketing and striking through the words "assessments imposed by",

line 13, by deleting the bracket before the word "subsection" and by deleting the strikes through the word "subsection", by adding, following the word "subsection", *(1)(a)*, by bracketing the subsection number "~~(2)~~", and by deleting the strikes through and the bracket following the word "of",

line 26, by deleting the words "*Such assessments*", and inserting in their place the words, *The assessment provided for in subsection (1)(a) of this section.*

Page 20, line 11, by deleting the word "*assessments*" and inserting in its place the word *assessment*,

line 12, by deleting the word "*herein*", and inserting in its place the words, *under the provisions of subsection (1)(a)*,

line 17, by deleting the word "*a*", and inserting in its place the word, *the*, and by inserting after the word "*assessment*" the words, *provided for in subsection (1)(a) of this section.*

Page 24, line 17, by deleting the word "*Assessments*" and inserting in its place the words, *The assessment*, and by adding after the word "*to*" the words, *subsection (1)(a) of.*

Page 25, line 5, by adding after the word "*carrier*" the words, *or taxpayer.*

Page 82, lines 25 and 26, by deleting lines 25 and 26 in their entirety.

Page 83, lines 1 through 25, by deleting lines 1 through 25 in their entirety, and by renumbering subsequent subsections to conform.

Floor Amendment No. 2 to **HB 1**, by Representative Stumbo:

Amend printed copy of **HB 1** beginning on page 99, line 11, by removing SECTION 57 in its entirety;

On page 96, line 3, by deleting the new language

On page 97, after line 5, by adding the following new subsection:

(c) Notwithstanding any other provision of this chapter, an employe who has a radiographic classification of category 1/0, 1/1 or 1/2, based on the latest ILO International Classification or Radiographics, shall be paid a permanent partial disability benefit equal to sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by his percentage of disability caused by the injury or occupational disease as determined by "guides to the evaluation of permanent impairment," American medical association, 1977 edition, or by his percentage of disability as determined under KRS 342.620(11), whichever is greater, for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of

this section. Notwithstanding any section of KRS Chapter 342 to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

On page 16, line 10, following "*commission,*" by inserting: "*financing the administration and operation of the coal workers' fund*"

On page 16, lines 16 and 17, by deleting: "*twenty-three and three tenths percent (23.3%)*"

And by inserting in lieu thereof: "*sixteen and one-tenth percent (16.1%)*"

On page 17, line 3, after the "." by adding:

"*The special fund assessment imposed in this paragraph, shall not be imposed upon premiums received from employers engaged in the severance or processing of coal or from premiums of employers carrying their own risk who are engaged in the severance or processing coal*"

On page 17, by deleting lines 11 through 25 and by inserting in lieu thereof:

"*(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional assessment is hereby imposed on every taxpayer engaged in severing and/or processing coal within this Commonwealth at the rate of forty (40) cents per ton of all coal severed and/or processed during the reporting period, effective for all reporting periods beginning after December 31, 1987. The assessment shall be reported on the same form and paid in the same manner as the tax imposed under the provisions of KRS Chapter 143. The assessment shall be paid to the revenue cabinet, which in turn shall deposit the funds collected to the credit of the coal workers' fund within the Kentucky workers' compensation funding commission. The terms "coal", "severed", "severing", "taxpayer", "gross value", "reporting period" and "processing", and any other terms applicable to the administration of the provisions of this paragraph shall mean the same as such terms defined in KRS Chapter 143. Any other provisions of KRS Chapter 143 necessary to the administration of the provisions of this paragraph, including the penalties imposed under the provisions of KRS 143.990, are hereby adopted.*

On page 18, line 2, by removing "*special fund*" and on lines 12 and 13, by deleting "*seventy million dollars ($70,000,000)*" and

by inserting in lieu thereof: "*forty-eight million dollars ($48,000,000)*" and

On page 18, line 15, by deleting "*forty million dollars ($40,000,000)*"

and inserting in lieu thereof: "*sixty-two million dollars ($62,000,000)*"

On page 18, line 19, by deleting "*special fund*"

On page 19, line 2, by deleting "*special fund*"

On page 19, line 11 after the "." by adding:

"*Provided, however, that the assessment rate imposed in paragraph (b) of this subsection shall not exceed fifty (50) cents per ton of coal*"

On page 19, line 15, by bracketing and striking through: "and shall be credited to the"

On page 19, lines 15, 16 and 17 by removing the new language

On line 26, by removing "*Such assessments*" and by inserting in lieu thereof:

"*The assessments imposed in paragraph (a) of subsection (1) of this section*"

On page 20, line 5, by deleting "*herein*" and by adding after "*imposed,*" the words "*in paragraph (a) of subsection (1) of this section*"

On page 20, line 11, by deleting "*special fund*" and on line 12 by deleting "*required herein*" and by inserting in lieu thereof "*imposed in paragraph (a) of subsection (1) of this section*"

On page 20, line 17, by deleting "*a special fund assessment*" and by inserting in lieu thereof: "*the assessment imposed in paragraph (a) of subsection (1) of this section*"

On page 21, line 2, by deleting "*special fund*"

On page 99, after line 10, by adding the following new section and by renumbering the remaining sections and in-text references accordingly.

SECTION 57. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) Benefits awarded to an employe under this chapter may be reduced, but not below zero, one dollar ($1.00) for each two dollars ($2.00) in social security retirement benefits the employe receives.

(2) Upon request of the board or any party responsible for the payment of benefits under this chapter, the employe shall authorize the social security administration to release benefit information relating to him.

On page 119, line 18, after "*fund*" by adding, "*, the coal workers' fund*"

On page 119, line 21 after the "." by adding:

"*Provided, however, that the funds collected pursuant to paragraph (a) and paragraph (b) in subsection (1) of Section 13 of this Act shall be invested and maintained separately*"

On page 119, after line 21, by adding the following new section:

SECTION 71. A NEW SECTION IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created in the state treasury a coal workers' fund, hereinafter referred to as the "fund" to be administered by the Kentucky workers' compensation funding commission created pursuant to this Act.

(2) Money in the fund shall be used for the payment of current workers' compensation awards made pursuant to this chapter, for injuries and diseases resulting from employment in the coal mining industry, in accordance with the apportionment provisions in this chapter.

Floor Amendment No. 3 to **HB 1**, by Representative A. Jones:

Amend printed copy of **HB 1** on page 5, line 14, after the word "*claim*" delete the word "*waives*" and insert in lieu thereof the following: "*shall execute a waiver and consent of*";

And on page 5, line 14, after the words "physician-patient" insert the following: "*, psychiatrist-patient*";

And on page 5, line 18, after the word "*physician*" insert the word "*psychiatrist*";

And on page 6, delete lines 14 through 17 in their entirety and insert in lieu thereof the following:

"*(2) Any claim for excess fees shall be submitted to the administrative law judge for determination as to payment by the employer or special fund, but in no event shall the employe be held liable for excess fees.*"

Floor Amendment No. 4 to **HB 1**, by Representative A. Jones:

Amend printed copy of **HB 1** on page 35, line 9 to delete the same;

And on page 35, line 10, to add "*(6)*" at the beginning of the line;

And on page 35, line 11, to delete "*judicial*" and to insert in lieu thereof "*Kentucky employes*";

And on page 36, line 25, after the word "*commission*" insert the following: "*on the first Monday in January, 1988*";

And on page 38, line 25, after the word "*commissioner*" insert the following, "*. The board may remove*", and remove the bracket after "director" and strike through the word "or" and insert a bracket after "or";

And on page 38, line 26, after the word "*judge*" insert the following: "*for violation of the code of judicial ethics*".

Floor Amendment No. 5 to **HB 1**, by Representative A. Jones:

Amend printed copy of **HB 1** on page 32, between lines 7 and 8, insert the following:

"*(4) In addition to the remedy provided in subsection (3) of this section, an employe may file a complaint of discrimination under this section with the labor cabinet on forms provided by the cabinet and the labor cabinet shall:*

(a) Investigate the complaints;

(b) If there is probable cause to believe an act of discrimination has occurred, it shall;

(c) Notify the employer of the time, date and place of a hearing thereon;

(d) Hold a hearing to determine whether or not an act of discrimination has occurred;

(e) If an act of discrimination is established, the cabinet shall assess a civil penalty of up to five thousand dollars ($5,000);

(f) Establishment of discrimination is prima facie evidence of violation of subsection (2) of this section.

Floor Amendment No. 6 to **HB 1**, by Representative A. Jones:

Amend printed copy of **HB 1** on page 114, line 13, to delete "*seventeen (17)*" and insert in lieu thereof "*seven (7)*";

And on page 114, line 14, to delete "*seventeen (17)*" and insert in lieu thereof "*seven (7)*";

And on page 114, line 16, to delete "*fourteen (14)*" and insert in lieu thereof "*four (4)*";

And on page 114, line 18, to delete "*fourteen (14)*" and insert in lieu thereof "*four (4)*";

And on page 114, lines 20 and 21, to delete "*Three (3) members selected from a list of six (6)*" and insert in lieu thereof "*One (1) member, selected from a list of three (3)*";

And on page 114, lines 23 and 24, to delete "*Three (3) members, selected from a list of six (6)*" and insert in lieu thereof "*One (1) member, selected from a list of three (3)*";

And on page 115, lines 4 and 5, to delete "*Four (4) members, selected from a list of eight (8)*" and insert in lieu thereof "*One (1) member, selected from a list of three (3)*";

And on page 115, lines 8 and 9, to delete "*at least one (1)*";

And on page 115, to delete line 10 and the word "*agent*" in line 11;

And on page 115, to delete lines 12 through 19 in their entirety and to insert in lieu thereof the following: "*(d) One (1) member, selected from a list of three (3) submitted by the associations representing self-insured employers in the Commonwealth.*".

Floor Amendment No. 7 to **HB 1**, by Representative A. Jones:

Amend printed copy of **HB 1** on page 100, beginning on line 15, after the period add the following: "*To file a claim under this subsection a claimant may elect, in lieu of any other method of procedure, to be examined by a physician named by the board and paid for by the employer. Based upon this examination the board may make appropriate findings and enter an award if indicated. A claimant or employer aggrieved by a decision of the board shall have forty-five (45) days to file an appeal as provided by this Act.*"

And on page 101, beginning on line 11, after the period add the following:

"To file a claim under this subsection a claimant may elect, in lieu of any other method of procedure, to be examined by a physician named by the board and paid for by the employer. Based upon this examination the board may make appropriate findings and enter an award if indicated. A claimant or employer aggrieved by a decision of the board shall have forty-five (45) days to file an appeal as provided by this Act."

Floor Amendment No. 8 to **HB 1** by Representative Lear:

Amendment printed copy of **HB 1** on page 10, line 25, after "in" insert "*Section 74 of this Act*" and place brackets around and strike through "KRS 342.122";

On page 73, line 13, insert "*commissioner*" before "board" and place brackets around and strike through "board";

On page 73, line 15, insert "*the board and each of the administrative law judges*" before "it" and place brackets around and strike through "it";

On page 73, lines 18-20, remove the brackets and strikethrough from the language so bracketed and struck through;

On page 73, line 21, insert "*commissioner or the*" before "board";

On page 73, line 23, insert "*they*" before the first reference to "it" in the line and place brackets around and strike through the first reference to "it" in the line;

On page 73, line 23, insert "*commissioner*" before "board" and place brackets around and strike through "board";

On page 76, line 22, after "*assessments,*" insert "*and other taxes*";

On page 76, line 23, after "*Chapter*" insert "*fall*" and remove the "]" after "~~342.450~~" and insert a "]" after and strike through "falls";

On page 76, lines 24-26, delete references to "*funding commission*" wherever the words appear and remove brackets and strikethroughs from the two references to [~~revenue cabinet~~];

On page 83, line 26, after "(*24*)" delete the remainder of line 26 in its entirety;

Delete pages 84, 85 and 86 in their entirety;

On page 87, delete lines 1—18 in their entirety;

On page 87, line 19,

Delete "(*26*)";

On page 125, line 4,

After "Section 73" delete the remainder of the page and insert in lieu thereof the following:

"KRS 342.445" is amended to read as follows:

(1) For the purposes of [~~this section and for those of~~] KRS 342.122, KRS 342.450, KRS 342.455, KRS 342.460, KRS 342.465, [~~and~~] KRS 342.470 *and Sections 74, 75, and 76 of this Act,* the term "insurance carrier" shall include every group of self-insurers operating under the provisions of KRS 342.350 (4) and the term "premium" *when used to refer to the receipts of insurance carriers,* shall include any and all assessments levied on its members by such a group or contributed to it by the members thereof.

[~~(2) Every insurance carrier including the parties to any indemnity contract or reciprocal plan or scheme, insuring employers in this state against liability for personal injuries to their employes, or death caused thereby under this chapter, shall pay a tax upon the premium received, whether in cash or notes, inthis state or on account of business done in this state, for such insurance in this state, at the rate of two percent (2%) of the~~

~~amount of the premium. This tax shall be in lieu of all other taxes on such premiums. It shall be assessed and collected as provided in KRS 342.450. Such insurance carriers shall be credited with all canceled or returned premiums, including dividends paid or credited to policyholders, and with premiums received for reinsurance assumed from companies authorized and licensed to transact business in this state.~~]

(2) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the workers' compensation board using generally accepted actuarial methods as follows: the base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The board shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one of the three (3) calendar years to be used as the base, and shall assign a value to each such claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which is in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of last exposure occurred. The total value of such claims using the adjusted weekly benefit shall then be calculated by the board. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in subtitle 13 of KRS chapter 304. the sum of all calculated values shall be computed for all claims in the base period.

The board shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from board records and from the records of the division of unemployment insurance. The board shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which is in effect for the year in which the premium is being calculated by the statewide weekly wage in effect in each of the years of the base period. The sum of the adjusted payrolls shall be computed for the base period.

The board shall divide the sum of the adjusted claim values for the three (3) year base period by the sum of the adjusted payrolls for the same three (3) year period. The value so calculated shall be multiplied by 1.12 and shall then be multiplied by the employer's most recent annualized payroll calculated using board records and division of unemployment insurance data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under this section.

The calculations set forth in this section shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) monthly period and submits payroll and other data in support of the application. The employer shall be notified at the time of the certification or recertification of the premium calculated by the board which shall form the employer's basis for assessments pursuant to section 3 of this Act for the calendar year beginning on January 1 following the date of certification or recertification.

If an employer having less than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of this section shall be based on such lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than three (3) years of operation in this state available for the premium calculation then his premium shall be the greater of the value obtained by the calculation called for in this section or the amount of security required by the board pursuant to KRS 342.340(1).

If an employer is certified to carry his own risk after having previously insured such risk, this premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments on premiums paid while insured he shall be assessed only under this subsection.

(3) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this section except that the value for each such employer's claims shall be the total of the indemnity benefits paid by the employer, adjusted to current benefit levels, plus the medical benefits paid.

SECTION 74. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) In order to finance the special fund, the division of special fund created by KRS 342.120, and the Kentucky workers' compensation funding commission created in this Act, the secretary of revenue shall levy in each calendar year an annual assessment upon the workers' compensation premiums, whether in cash or notes, received on account of business done in this state by insurance carriers writing workers' compensation insurance for employers insuring their risks pursuant to KRS Chapter 342; and also upon the premium of employers carrying their own risk under KRS 342.340. The total amount of this annual assessment shall be sixty million dollars ($60,000,000.00). In calendar year 1988, the assessment to be paid shall be seventeen percent (17%) of premium. In subsequent calendar years the percentage of premium to be paid to produce a sixty million dollars ($60,000,000) assessment, shall be calculated by the workers' compensation funding commission pursuant to Section 6 of this Act. For insurance carriers, the assessment shall be paid quarterly on all premiums for coverage under this Act received in that quarter. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the assessment in four (4) equal quarterly installments. The due date for each quarterly payment shall be the twentieth (20th) day of the month following the end of each calendar quarter.

(2) In addition, the secretary of revenue shall levy in each calendar year an additional annual assessment, the special fund usage assessment, upon the workers' compensation premiums for coverage under this Act received by insurance carriers and the premiums calculated for employers carrying their own risk. The total amount of this annual assessment shall be fifty million dollars ($50,000,000.00).

(3) Insurance carriers shall collect from their policyholders at the time premiums are paid the amounts which are the policyholder's assessments to be collected and remitted by the insurance carrier. Each statement from an insurance carrier presented to a policyholder reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from a policyholder an amount in excess of the assessment percentages in effect at the time the statement of the premium is sent to the policyholder. Premiums for coverages under this Act and other worker's compensation programs which are combined shall be considered one premium for assessment purposes. No assessments shall be made against premiums separately paid for coverages other than under the Kentucky Workers' Compensation Act. Upon non-payment of the assessment by an insured the insurer shall have the same rights of cancellation of the policy as provided in KRS 304.20-300 or in the provisions of the policy for non-payment of premium.

In the event that an assessment is paid with respect to a premium received for an insurance policy which is later cancelled by the insurance carrier or the employer or returned by the employer, resulting in a refund of all or part of the premium to the employer, a corresponding refund of all or part of the assessment paid by the employer shall be made. If the assessment amount has been remitted to the secretary of revenue before the cancellation or return, the insurance carrier shall deduct the amount of the assessment refunded or returned to the employer, from assessments required to be remitted in subsequent quarters. In the alternative, the insurance carrier may apply to the secretary of revenue for a return to the carrier of the refunded assessment amount, which amount shall be returned upon a showing of the refund.

If during the policy period of a policy of workers' compensation insurance, the applicable assessment rate changes by more than 5% from the rate in effect at the beginning of the policy period, the insurer shall upon final audit of the policy adjust the assessments collected during the policy period to reflect the average assessment rate in effect during the policy period and shall collect or return such adjustments to or from the policyholder at the time of final audit adjustments to the policy.

(4) All funds collected by the secretary of the revenue cabinet shall be deposited into a special fund trust account within the treasury. These funds shall be invested by the state investment commission and all interest earned shall be credited to the special fund trust account. Any funds collected in excess of the amount required to meet current expenditure levels may be invested in United States treasury bills or in any other United States government security which will mature within ten years from the date of investment. Funds required to meet current expenditure levels may be invested on the same basis as general revenues of the state with all interest being credited to the special fund trust account.

(5) Assessments levied pursuant to subsections (1) and (2) of this section and unpaid on the date on which they are due and payable, shall bear interest at the rate specified in KRS 360.040 or a penalty of one and one-half percent (1-1/2%) per month, whichever is greater, from the date the assessments are due and payable.

SECTION 75. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of setting the rates of assessment in order to finance the special fund, and monitoring use of the fund, the Kentucky workers' compensation funding commission is created.

(2) The commission shall consist of seventeen members. The secretary of the labor cabinet, the secretary of the commerce cabinet and the secretary of the revenue cabinet shall serve. The governor shall appoint fourteen (14) members to the commission.

(3) The appointed members shall include:

(a) Three (3) members who shall represent employes;

(b) Three (3) members who shall represent employers who purchase workers' compensation insurance from insurance companies writing workers' compensation insurance in the Commonwealth;

(c) Four (4) members who shall represent insurance companies writing workers' compensation insurance in the commonwealth;

(d) Two (2) members who shall represent employers who carry their own risk under KRS chapter 342; and

(e) Two (2) members who shall represent self-insurance groups in the commonwealth.

(4) The appointed commission members shall serve terms of four years, except that the initial terms of the members shall be staggered as follows:

(a) The three (3) members appointed initially by the governor to represent employes shall serve terms of two (2), three (3), and four (4) years, respectively. Thereafter, each member shall serve a term of four (4) years.

(b) The four (4) members appointed initially by the governor to represent insurance companies shall serve terms of one (l), two (2), three (3), and four (4) years, respectively. Thereafter, each member shall serve a term of four (4) years. One such member shall be a resident of Kentucky. Three (3) of the four (4) members appointed by the governor to represent insurance companies shall be appointed from a list provided by the advisory organization defined in subtitle 13 of KRS Chapter 304 of its committee members charged with Kentucky rating matters.

(c) The two (2) members appointed initially by the governor to represent employers who carry their own risk shall serve terms of one (l) and three (3) years, respectively, and the two (2) members appointed initially to represent self-insurance groups shall serve terms of two (2) and four (4) years respectively. Thereafter, each member shall serve a term of four (4) years.

(5) The commission members shall annually elect from their number a chairman, a vice-chairman, and a secretary-treasurer, and such other officers as the commission deems necessary.

(6) The commission shall hire an executive director to administer, manage, and direct the affairs and business of the commission, and such other staff persons as it deems necessary. The operating budget of the commission shall become a part of the revenue cabinet's budget and shall be submitted for enactment by the general assembly biannually.

(7) A minimum of eleven (ll) voting members of the commission shall constitute a quorum for conducting the commission's business. If a quorum is present a minimum of eight affirmative votes shall be required to adopt any resolution of the commission. The commission shall meet not less than once each calendar quarter to carry out its duties.

(8) The Kentucky workers' compensation funding commission shall be attached to the revenue cabinet for operating budget purposes only.

SECTION 76. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The Kentucky workers' compensation funding commission shall have the following duties:

(l)(a) To receive all required data to be provided quarterly by the secretary of revenue concerning the amount of premium and assessments paid by each insured employer and the SIC codes assigned to each such employer by the division of unemployment compensation insurance.

(b) To receive all required data to be provided quarterly by the workers' compensation board, concerning

calculated premiums of employers carrying their own risk and concerning claims involving the special fund, including use of the fund by industry groups identified by use of SIC codes.

(c) To receive quarterly, from the workers' compensation board, a copy of the special fund claims database for liability valuation purposes.

(d) To receive all required data, to be provided quarterly by the Kentucky investment commission, concerning the financial status of the special fund trust account.

(e) To study and utilize all data received for the purpose of carrying out the remaining duties set forth in this section.

(2) On November 1, 1988, and each November 1 thereafter to set the rate of assessment required as of the following January 1 to provide sixty million dollars ($60,000,000) under subsection (1) of Section 74 of this Act and to report such rate to the Governor and to the General Assembly.

(3)(a) On November 1, 1988, and each November 1 thereafter, to set the rates of assessment for each SIC industry division or group required as of the following January 1 to allocate equitably the assessment ratio that will provide fifty million dollars ($50,000,000) under subsection (2) of section 74 of this Act and to report such rate to the Governor and General Assembly.

(b) The procedure used to determine the five year claim value for use in establishing assessment rates for the user-related assessment shall be as follows:

1. By November 1 of each year the commission shall calculate the payments made to date by the special fund and the remaining payments to be paid by the special fund on all workers' compensation claims in which the special fund is a party and which have been awarded or settled by agreement during the previous five calendar years using a standard and uniform method to project future payments, consistent with all other actuarial projections by the commission.

2. The values calculated in subsection (2)(b)1. of this section shall be grouped according to the industry division of the employer named in the award using the industry divisions identified by the letters A through K inclusive contained in the latest available edition of the standard industrial classification (SIC) manual as published by the United States department of labor.

3. The proportion of the use of the special fund for each individual industry division shall be calculated by dividing each industry division's five (5) year special fund claim value resulting from the classification in 2, above by the total five (5) year special fund claim value of all employers, as calculated in subsection one above.

(c) The premiums for each individual industry division for the five (5) year experience period used for claim liability measurement shall be established from data reported to the commission by the revenue cabinet, and the proportion of each individual industry division's premium to the total five (5) year premium of all employers shall be calculated by dividing each individual industry division's five year premium by the total five (5) year premium for all employers.

(d) The assessment rates for the fifty million ($50,000,000) user related assessment shall be computed as follows:

1. If any individual industry division's five year premium exceeds two and one-half percent (2.5%) of the total five (5) year premium of all employers and the claim liability of that industry division as calculated in subsection (2)(b)3. of this section also exceeds two and one-half percent (2.5%) of the total five year special fund claim value, then such industry division shall be assessed its proportion, as measured in subsection (2)(b)3. of this section of fifty million dollars ($50,000,000) for the next twelve (12) month period beginning January 1 of each year.

2. All those individual industry divisions which do not meet the criteria set forth in subsection (2)(d)1. of this section shall be assessed as a group for that portion of fifty million dollars ($50,000,000) not otherwise assigned to individual industry divisions.

3. If the commission identifies a major industry group or groups as identified by two digit major industry group SIC codes which alone meet the criteria set forth in subsection (2)(d)1. of this section for the calculation

of a separate user related assessment, such major industry groups shall be assessed on the basis of their own proportion of five year claim values to the total five year values of the Special Fund. If the industry division excluding those major industry group or groups which alone meet the criteria set forth in subsection (2)(d)1. of this section does not meet the criteria set forth in subsection (2)(d)1. of this section it shall be grouped with all other industry divisions not meeting the criteria in subsection (2)(d)1 of this section and assessed as provided in subsection (2)(d)2. of this section.

4. The general assembly hereby finds that major industry group 12, coal mining, has been established as having met the criteria set forth in subsection (2)(d)3. of this section and shall be separately assessed for its proportional share of the $50,000,000 assessment beginning on January 1, 1988. All other industry divisions or major industry groups shall be separately assessed only upon the reporting of two years of data as set forth in subsection (2)(b) through (d) of this section which meet the criteria set forth in subsection (2)(d)3.

(e) The assessment amounts established in (d) 1. through 4. above shall then be related to the latest and best available information on the premium levels expected for the next twelve (12) months from each industry division or major industry group and a rate per one dollar ($1.00) of premium shall be established for each industry division and major industry group. A rate schedule showing a use of the system rate for each industry division and major industry group being separately assessed shall be announced by the commission before December 15 of each year. All insurance carriers, group self-insurers and employers carrying their own risk shall be notified in writing of the schedule and any subsequent revisions with fifteen (15) days.

(f) The commission shall perform the following duties with respect to the overall assessment process:

1. By July 1 of each year adjust the rates calculated in (d) of this subsection so as to as closely as possible cause to be collected sixty million dollars ($60,000,000) and fifty million dollars ($50,000,000) during each calendar year.

2. Monitor the Kentucky special fund and report annually the condition of the fund to the governor and the general assembly, including recommendations on changes in funding levels, the effects of proposed or pending legislation on funding levels and any other such matters as the commission deems pertinent to the current and future funding of special fund liabilities.

3. Conduct audits independently or in conjunction with the labor or revenue cabinets of all entities subject to the assessments imposed by this Act. The entities selected for such audits and the frequency of such audits shall be determined by the commission with respect to any audit initiated by the commission. Reports on the results of such audits in which the commission participates shall be made part of the annual report to the governor and the general assembly as required by subsection (2)(f)2. of this section.

4. Perform annually an actuarial valuation of all liabilities of the special fund using generally accepted actuarial methods. The valuation shall project all benefit and expense payments expected to be made by the fund for all claims incurred by injury or date of last exposure to an occupational hazard through December 31 of the current year. The commission shall hire or contract for such actuarial personnel and services as may be necessary to perform such valuations. A separate report of the valuation shall be attached to the annual report to the governor and the general assembly.

5. Coordinate with the division of unemployment insurance to make available to all parties involved in the calculation and collection of assessments information as to the SIC codes otherwise assigned to each employer by the division. The division shall be the sole source of such SIC code assignments for the purposes of Special Fund assessments.

(4) On December 1, 1988 and each December 1 thereafter, notify each insurance company and employer carrying its own risk of the rate of assessment effective the following January 1.

SECTION 77. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The Kentucky reinsurance association is abolished and there is substituted therefor the Kentucky workers' compensation funding commission, created and funded by Section 75 of this Act. The computer equipment and databases owned and maintained by the Kentucky reinsurance association are hereby transferred to the Kentucky workers' compensation board for continued maintenance. All funds, wherever located, possessed by the Kentucky reinsurance association shall be remitted to the treasurer for placement in the special fund trust account within sixty (60) days of the effective date of this Act. All such funds shall be used for the purposes for

which they were originally collected by the Kentucky reinsurance association. All contractual liabilities and statutory obligations of the Kentucky reinsurance association are hereby transferred and assigned to the Kentucky workers' compensation funding commission, as is all property of the Kentucky reinsurance association except the computer and database transferred above.

SECTION 78. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The obligations of the uninsured employers' fund are hereby assigned to the newly created uninsured employers' fund program within the labor cabinet's office of general counsel. The equipment and records of the uninsured employers' fund divisions within the Office of the Attorney General are hereby transferred to the uninsured employers' fund program within the labor cabinet's office of general counsel. The assets of the uninsured employers' fund in the state treasury are hereby reincorporated into the workers' compensation maintenance fund trust account.

SECTION 79. THE FOLLOWING KRS SECTIONS ARE REPEALED:

342.122. Definition of "adjusted cost"; special fund tax and assessments; reinsurance of special fund liabilities.

342.123. Creation of Kentucky reinsurance association, board of directors; payment of premiums and assessments by subscribers.

342.255. Hearing, how held; what deems order of board.

342.475. Employer carrying own risk to pay maintenance fund tax.

SECTION 80. WHEREAS, it is necessary for the Kentucky workers' compensation funding commission to begin to carry out its duties immediately in order to better resolve the funding crisis of the special fund; and

WHEREAS, it is necessary that the new eligibility and benefit structure for coal workers' pneumoconiosis apply to all claims in which the date of disability or date of last exposure occurs immediately after the date on which this Act shall become law; and

WHEREAS, the remaining parts of this Act are designed to become effective on January 1, 1988, in order to effect an orderly transition of financing and administration systems;

An emergency is declared to exist:

Sections 7, 16, 11, 74, 75, 76, and 57 of this Act shall become effective upon their passage and approved by the governor.

The remaining sections of this Act shall become effective on January 1, 1988.";

Delete page 126 in its entirety;

Delete the following Sections of **HB 1** in their entirety:

Sections 12, 13, 14, 15, 48, 50, 64, 65, 66, 67, 68, 69, 70 and 71.

And renumber the remaining sections and any in text references accordingly.

Floor Amendment No. 9 to **HB 1**, by Representative Noe:

Amend printed copy of **HB 1** on page 6, beginning on line 26, by removing Section 7 in its entirety;

And on page 11, beginning on line 12 and ending on line 13, by removing the new language;

And on page 25, by removing the new language on line 26;

And on page 26, by removing the new language on line 1;

And on page 26, beginning on line 13, by removing subsection (2) in its entirety and renumbering the succeeding subsection;

And on page 43, by removing lines 3 and 4 in their entirety;

And on page 53, beginning on line 13 by removing Section 41 in its entirety;

And on page 99, beginning on line 11, by removing Section 57 in its entirety;

And by renumbering the sections succeeding section 6.

Floor Amendment No. 10 to **HB 1**, by Representative Meyer:

Amend printed copy of **HB 1** on pages 35 and 36 to delete subsection 2 in its entirety, and to insert in lieu thereof the following:

"*(2) The workers' compensation board nominating commission shall consist of seven (7) members appointed by the governor as follows:*

(a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years.

(b) 1. One (1) member of the political pary having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and

2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.

3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.

(c) Appointments to fill the unexpired term of a member shall be for the remainder of the term."

Floor Amendment No. 11 to **HB 1**, by Representative M. Brown:

Amend printed copy of **HB 1** on page 10, line 25, after "in" insert "*Section 74 of this Act*" and place brackets around and strike through "KRS 342.122";

On page 73, line 13, insert "*commissioner*" before "board" and place brackets around and strike through "board";

On page 73, line 15, insert "*the board and each of the administrative law judges*" before "it" and place brackets around and strike through "it";

On page 73, lines 18-20, remove the brackets and strikethrough from the language so bracketed and struck through;

On page 73, line 21, insert "*commissioner or the*" before "board";

On page 73, line 23, insert "*they*" before the first reference to "it" in the line and place brackets around and strike through the first reference to "it" in the line;

On page 73, line 23, insert "*commissioner*" before "board" and place brackets around and strike through "board";

On page 76, line 22, after "*assessments,*" insert "*and other taxes*";

On page 76, line 23, after "*Chapter*" insert "*fall*" and remove the "]" after "~~342.450~~" and insert a "]" after and strike through "falls";

On page 76, lines 24-26, delete references to "*funding commission*" wherever the words appear and remove brackets and strikethroughs from the two references to [~~revenue cabinet~~];

On page 83, line 26, after "(*24*)" delete the remainder of line 26 in its entirety;

Delete pages 84, 85 and 86 in their entirety;

On page 87, delete lines 1—18 in their entirety;

On page 87, line 19,

Delete "(*26*)";

On page 125, line 4, after "Section 73" delete the remainder of the page and insert in lieu thereof the following:

"KRS 342.445" is amended to read as follows:

(1) For the purposes of [~~this section and for those of~~] KRS 342.122, KRS 342.450, KRS 342.455, KRS 342.460, KRS 342.465, [~~and~~] KRS 342.470 *and Sections 74, 75, and 76 of this Act,* the term "insurance carrier" shall include every group of self-insurers operating under the provisions of KRS 342.350 (4) and the term "premium" *when used to refer to the receipts of insurance carriers,* shall include any and all assessments levied on its members by such a group or contributed to it by the members thereof.

[~~(2) Every insurance carrier including the parties to any~~ indemnity contract or reciprocal plan or scheme, insuring employers in this state against liability for personal injuries to their employes, or death caused thereby under this chapter, shall pay a tax upon the premium received, whether in cash or notes, inthis ~~state or on account of business done in this state, for such insurance in this state, at the rate of two percent (2%) of the amount of the premium. This tax shall be in lieu of all other taxes on such premiums. It shall be assessed and collected as provided in KRS 342.450. Such insurance carriers shall be credited with all canceled or returned premiums, including dividends paid or credited to policyholders, and with premiums received for reinsurance assumed from companies authorized and licensed to transact business in this state.~~]

(2) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the workers' compensation board using generally accepted actuarial methods as follows: the base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The board shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one of the three (3) calendar years to be used as the base, and shall assign a value to each such claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which is in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of last exposure occurred. The total value of such claims using the adjusted weekly benefit shall then be calculated by the board. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in subtitle 13 of KRS chapter 304. the sum of all calculated values shall be computed for all claims in the base period.

The board shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from board records and from the records of the division of unemployment insurance. The board shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which is in effect for the year in which the premium is being calculated by the statewide weekly wage in effect in each of the years of the base period. The sum of the adjusted payrolls shall be computed for the base period.

The board shall divide the sum of the adjusted claim values for the three (3) year base period by the sum of the adjusted payrolls for the same three (3) year period. The value so calculated shall be multiplied by 1.12 and shall then be multiplied by the employer's most recent annualized payroll calculated using board records and

division of unemployment insurance data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under this section.

The calculations set forth in this section shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) monthly period and submits payroll and other data in support of the application. The employer shall be notified at the time of the certification or recertification of the premium calculated by the board which shall form the employer's basis for assessments pursuant to section 3 of this Act for the calendar year beginning on January 1 following the date of certification or recertification.

If an employer having less than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of this section shall be based on such lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has les than three (3) years of operation in this state available for the premium calculation then his premium shall be the greater of the value obtained by the calculation called for in this section or the amount of security required by the board pursuant to KRS 342.340(1).

If an employer is certified to carry his own risk after having previously insured such risk, this premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments on premiums paid while insured he shall be assessed only under this subsection.

(3) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this section except that the value for each such employer's claims shall be the total of the indemnity benefits paid by the employer, adjusted to current benefit levels, plus the medical benefits paid.

SECTION 74. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) In order to finance the special fund, the division of special fund created by KRS 342.120, and the Kentucky workers' compensation funding commission created in this Act, the secretary of revenue shall levy in each calendar year an annual assessment upon the workers' compensation premiums, whether in cash or notes, received on account of business done in this state by insurance carriers writing workers' compensation insurance for employers insuring their risks pursuant to KRS Chapter 342; and also upon the premium of employers carrying their own risk under KRS 342.340. The total amount of this annual assessment shall be seventy million dollars ($70,000,000.00). In calendar year 1988, the assessment to be paid shall be twenty percent (20%) of premium. In subsequent calendar years the percentage of premium to be paid to produce a seventy million dollars ($70,000,000) assessment, shall be calculated by the workers' compensation funding commission pursuant to Section 6 of this Act. For insurance carriers, the assessment shall be paid quarterly on all premiums for coverage under this Act received in that quarter. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the assessment in four (4) equal quarterly installments. The due date for each quarterly payment shall be the twentieth (20th) day of the month following the end of each calendar quarter.

(2) In addition, the secretary of revenue shall levy in each calendar year an additional annual assessment, the special fund usage assessment, upon the workers' compensation premiums for coverage under this Act received by insurance carriers and the premiums calculated for employers carrying their own risk. The total amount of this annual assessment shall be forty million dollars ($40,000,000.00).

(3) Insurance carriers shall collect from their policyholders at the time premiums are paid the amounts which are the policyholder's assessments to be collected and remitted by the insurance carrier. Each statement from an insurance carrier presented to a policyholder reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from a policyholder an amount in excess of the assessment percentages in effect at the time the statement of the premium is sent to the policyholder. Premiums for coverages under this Act and other worker's compensation programs which are combined shall be considered one premium for assessment purposes. No assessments shall be made against premiums separately paid for coverages other than under the Kentucky Workers' Compensation Act. Upon non-payment of the assessment by an insured the insurer shall have the same rights of cancellation of the policy as provided in KRS 304.20-300 or in the provisions of the policy for non-payment of premium.

In the event that an assessment is paid with respect to a premium received for an insurance policy which is

later cancelled by the insurance carrier or the employer or returned by the employer, resulting in a refund of all or part of the premium to the employer, a corresponding refund of all or part of the assessment paid by the employer shall be made. If the assessment amount has been remitted to the secretary of revenue before the cancellation or return, the insurance carrier shall deduct the amount of the assessment refunded or returned to the employer, from assessments required to be remitted in subsequent quarters. In the alternative, the insurance carrier may apply to the secretary of revenue for a return to the carrier of the refunded assessment amount, which amount shall be returned upon a showing of the refund.

If during the policy period of a policy of workers' compensation insurance, the applicable assessment rate changes by more than 5% from the rate in effect at the beginning of the policy period, the insurer shall upon final audit of the policy adjust the assessments collected during the policy period to reflect the average assessment rate in effect during the policy period and shall collect or return such adjustments to or from the policyholder at the time of final audit adjustments to the policy.

(4) All funds collected by the secretary of the revenue cabinet shall be deposited into a special fund trust account within the treasury. These funds shall be invested by the state investment commission and all interest earned shall be credited to the special fund trust account. Any funds collected in excess of the amount required to meet current expenditure levels may be invested in United States treasury bills or in any other United States government security which will mature within ten years from the date of investment. Funds required to meet current expenditure levels may be invested on the same basis as general revenues of the state with all interest being credited to the special fund trust account.

(5) Assessments levied pursuant to subsections (1) and (2) of this section and unpaid on the date on which they are due and payable, shall bear interest at the rate specified in KRS 360.040 or a penalty of one and one-half percent (1-1/2%) per month, whichever is greater, from the date the assessments are due and payable.

SECTION 75. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of setting the rates of assessment in order to finance the special fund, and monitoring use of the fund, the Kentucky workers' compensation funding commission is created.

(2) The commission shall consist of seventeen members. The secretary of the labor cabinet, the secretary of the commerce cabinet and the secretary of the revenue cabinet shall serve. The governor shall appoint fourteen (14) members to the commission.

(3) The appointed members shall include:

(a) Three (3) members who shall represent employes;

(b) Three (3) members who shall represent employers who purchase workers' compensation insurance from insurance companies writing workers' compensation insurance in the Commonwealth;

(c) Four (4) members who shall represent insurance companies writing workers' compensation insurance in the commonwealth;

(d) Two (2) members who shall represent employers who carry their own risk under KRS chapter 342; and

(e) Two (2) members who shall represent self-insurance groups in the commonwealth.

(4) The appointed commission members shall serve terms of four years, except that the initial terms of the members shall be staggered as follows:

(a) The three (3) members appointed initially by the governor to represent employes shall serve terms of two (2), three (3), and four (4) years, respectively. Thereafter, each member shall serve a term of four (4) years.

(b) The four (4) members appointed initially by the governor to represent insurance companies shall serve terms of one (1), two (2), three (3), and four (4) years, respectively. Thereafter, each member shall serve a term of four (4) years. One such member shall be a resident of Kentucky. Three (3) of the four (4) members appointed by the governor to represent insurance companies shall be appointed from a list provided by the advisory organization defined in subtitle 13 of KRS Chapter 304 of its committee members charged with Kentucky rating matters.

(c) The two (2) members appointed initially by the governor to represent employers who carry their own risk shall serve terms of one (l) and three (3) years, respectively, and the two (2) members appointed initially to represent self-insurance groups shall serve terms of two (2) and four (4) years respectively. Thereafter, each member shall serve a term of four (4) years.

(5) The commission members shall annually elect from their number a chairman, a vice-chairman, and a secretary-treasurer, and such other officers as the commission deems necessary.

(6) The commission shall hire an executive director to administer, manage, and direct the affairs and business of the commission, and such other staff persons as it deems necessary. The operating budget of the commission shall become a part of the revenue cabinet's budget and shall be submitted for enactment by the general assembly biannually.

(7) A minimum of eleven (ll) voting members of the commission shall constitute a quorum for conducting the commission's business. If a quorum is present a minimum of eight affirmative votes shall be required to adopt any resolution of the commission. The commission shall meet not less than once each calendar quarter to carry out its duties.

(8) The Kentucky workers' compensation funding commission shall be attached to the revenue cabinet for operating budget purposes only.

SECTION 76. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The Kentucky workers' compensation funding commission shall have the following duties:

(l)(a) To receive all required data to be provided quarterly by the secretary of revenue concerning the amount of premium and assessments paid by each insured employer and the SIC codes assigned to each such employer by the division of unemployment compensation insurance.

(b) To receive all required data to be provided quarterly by the workers' compensation board, concerning calculated premiums of employers carrying their own risk and concerning claims involving the special fund, including use of the fund by industry groups identified by use of SIC codes.

(c) To receive quarterly, from the workers' compensation board, a copy of the special fund claims database for liability valuation purposes.

(d) To receive all required data, to be provided quarterly by the Kentucky investment commission, concerning the financial status of the special fund trust account.

(e) To study and utilize all data received for the purpose of carrying out the remaining duties set forth in this section.

(2) On November l, 1988, and each November l thereafter to set the rate of assessment required as of the following January l to provide seventy million dollars ($70,000,000) under subsection (l) of Section 74 of this Act and to report such rate to the Governor and to the General Assembly.

(3)(a) On November l, 1988, and each November l thereafter, to set the rates of assessment for each SIC industry division or group required as of the following January l to allocate equitably the assessment ratio that will provide forty million dollars ($40,000,000) under subsection (2) of section 74 of this Act and to report such rate to the Governor and General Assembly.

(b) The procedure used to determine the five year claim value for use in establishing assessment rates for the user-related assessment shall be as follows:

1. By November l of each year the commission shall calculate the payments made to date by the special fund and the remaining payments to be paid by the special fund on all workers' compensation claims in which the special fund is a party and which have been awarded or settled by agreement during the previous five calendar years using a standard and uniform method to project future payments, consistent with all other actuarial projections by the commission.

2. The values calculated in subsection (2)(b)l. of this section shall be grouped according to the industry division of the employer named in the award using the industry divisions identified by the letters A through K

inclusive contained in the latest available edition of the standard industrial classification (SIC) manual as published by the United States department of labor.

3. The proportion of the use of the special fund for each individual industry division shall be calculated by dividing each industry division's five (5) year special fund claim value resulting from the classification in 2, above by the total five (5) year special fund claim value of all employers, as calculated in subsection one above.

(c) The premiums for each individual industry division for the five (5) year experience period used for claim liability measurement shall be established from data reported to the commission by the revenue cabinet, and the proportion of each individual industry division's premium to the total five (5) year premium of all employers shall be calculated by dividing each individual industry division's five year premium by the total five (5) year premium for all employers.

(d) The assessment rates for the forty million ($40,000,000) user related assessment shall be computed as follows:

1. If any individual industry division's five year premium exceeds two and one-half percent (2.5%) of the total five (5) year premium of all employers and the claim liability of that industry division as calculated in subsection (2)(b)3. of this section also exceeds two and one-half percent (2.5%) of the total five year special fund claim value, then such industry division shall be assessed its proportion, as measured in subsection (2)(b)3. of this section of forty million dollars ($40,000,000) for the next twelve (12) month period beginning January 1 of each year.

2. All those individual industry divisions which do not meet the criteria set forth in subsection (2)(d)1. of this section shall be assessed as a group for that portion of forty million dollars ($40,000,000) not otherwise assigned to individual industry divisions.

3. If the commission identifies a major industry group or groups as identified by two digit major industry group SIC codes which alone meet the criteria set forth in subsection (2)(d)1. of this section for the calculation of a separate user related assessment, such major industry groups shall be assessed on the basis of their own proportion of five year claim values to the total five year values of the Special Fund. If the industry division excluding those major industry group or groups which alone meet the criteria set forth in subsection (2)(d)1. of this section does not meet the criteria set forth in subsection (2)(d)1. of this section it shall be grouped with all other industry divisions not meeting the criteria in subsection (2)(d)1 of this section and assessed as provided in subsection (2)(d)2. of this section.

4. The general assembly hereby finds that major industry group 12, coal mining, has been established as having met the criteria set forth in subsection (2)(d)3. of this section and shall be separately assessed for its proportional share of the $40,000,000 assessment beginning on January 1, 1988. All other industry divisions or major industry groups shall be separately assessed only upon the reporting of two years of data as set forth in subsection (2)(b) through (d) of this section which meet the criteria set forth in subsection (2)(d)3.

(e) The assessment amounts established in (d) 1. through 4. above shall then be related to the latest and best available information on the premium levels expected for the next twelve (12) months from each industry division or major industry group and a rate per one dollar ($1.00) of premium shall be established for each industry division and major industry group. A rate schedule showing a use of the system rate for each industry division and major industry group being separately assessed shall be announced by the commission before December 15 of each year. All insurance carriers, group self-insurers and employers carrying their own risk shall be notified in writing of the schedule and any subsequent revisions with fifteen (15) days.

(f) The commission shall perform the following duties with respect to the overall assessment process:

1. By July 1 of each year adjust the rates calculated in (d) of this subsection so as to as closely as possible cause to be collected seventy million dollars ($70,000,000) and forty million dollars ($40,000,000) during each calendar year.

2. Monitor the Kentucky special fund and report annually the condition of the fund to the governor and the general assembly, including recommendations on changes in funding levels, the effects of proposed or pending legislation on funding levels and any other such matters as the commission deems pertinent to the current and future funding of special fund liabilities.

3. Conduct audits independently or in conjunction with the labor or revenue cabinets of all entities subject to the assessments imposed by this Act. The entities selected for such audits and the frequency of such audits shall be determined by the commission with respect to any audit initiated by the commission. Reports on the results of such audits in which the commission participates shall be made part of the annual report to the governor and the general assembly as required by subsection (2)(f)2. of this section.

4. Perform annually an actuarial valuation of all liabilities of the special fund using generally accepted actuarial methods. The valuation shall project all benefit and expense payments expected to be made by the fund for all claims incurred by injury or date of last exposure to an occupational hazard through December 31 of the current year. The commission shall hire or contract for such actuarial personnel and services as may be necessary to perform such valuations. A separate report of the valuation shall be attached to the annual report to the governor and the general assembly.

5. Coordinate with the division of unemployment insurance to make available to all parties involved in the calculation and collection of assessments information as to the SIC codes otherwise assigned to each employer by the division. The division shall be the sole source of such SIC code assignments for the purposes of Special Fund assessments.

(4) On December 1, 1988 and each December 1 thereafter, notify each insurance company and employer carrying its own risk of the rate of assessment effective the following January 1.

SECTION 77. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The Kentucky reinsurance association is abolished and there is substituted therefor the Kentucky workers' compensation funding commission, created and funded by Section 75 of this Act. The computer equipment and databases owned and maintained by the Kentucky reinsurance association are hereby transferred to the Kentucky workers' compensation board for continued maintenance. All funds, wherever located, possessed by the Kentucky reinsurance association shall be remitted to the treasurer for placement in the special fund trust account within sixty (60) days of the effective date of this Act. All such funds shall be used for the purposes for which they were originally collected by the Kentucky reinsurance association. All contractual liabilities and statutory obligations of the Kentucky reinsurance association are hereby transferred and assigned to the Kentucky workers' compensation funding commission, as is all property of the Kentucky reinsurance association except the computer and database transferred above.

SECTION 78. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

The obligations of the uninsured employers' fund are hereby assigned to the newly created uninsured employers' fund program within the labor cabinet's office of general counsel. The equipment and records of the uninsured employers' fund divisions within the Office of the Attorney General are hereby transferred to the uninsured employers' fund program within the labor cabinet's office of general counsel. The assets of the uninsured employers' fund in the state treasury are hereby reincorporated into the workers' compensation maintenance fund trust account.

SECTION 79. THE FOLLOWING KRS SECTIONS ARE REPEALED:

342.122. Definition of "adjusted cost"; special fund tax and assessments; reinsurance of special fund liabilities.

342.123. Creation of Kentucky reinsurance association, board of directors; payment of premiums and assessments by subscribers.

342.255. Hearing, how held; what deems order of board.

342.475. Employer carrying own risk to pay maintenance fund tax.

SECTION 80. WHEREAS, it is necessary for the Kentucky workers' compensation funding commission to begin to carry out its duties immediately in order to better resolve the funding crisis of the special fund; and

WHEREAS, it is necessary that the new eligibility and benefit structure for coal workers' pneumoconiosis apply to all claims in which the date of disability or date of last exposure occurs immediately after the date on which this Act shall become law; and

WHEREAS, the remaining parts of this Act are designed to become effective on January 1, 1988, in order to effect an orderly transition of financing and administration systems;

An emergency is declared to exist:

Sections 7, 16, 11, 74, 75, 76, and 57 of this Act shall become effective upon their passage and approved by the governor.

The remaining sections of this Act shall become effective on January 1,"1988.";

Delete page 126 in its entirety;

Delete the following Sections of **HB 1** in their entirety:

Sections 12, 13, 14, 15, 48, 50, 64, 65, 66, 67, 68, 69, 70 and 71.

And renumber the remaining sections and any in text references accordingly.

Floor Amendment No. 12 to **HB 1**, by Representative Morris:

Amend printed copy of **HB 1** on page 35, line 9 to delete the same;

And on page 35, line 10, to add "*(6)*" at the beginning of the line;

And on page 35, line 11, to delete "*judicial*" and to insert in lieu thereof "*Kentucky employes*".

Floor Amendment No. 13 to **HB 1**, by Representative Heleringer:

Amend printed copy of **HB 1** on page 51, after line 24, by adding the following new subsection:

"*(1) Except as otherwise provided in subsection (2) of this section, the board or any court before whom proceedings are brought under this chapter shall require the losing party to pay the following costs of the prevailing party: expert witness fees expended pursuant to Section 40 of this Act and the cost of the original deposition transcript.*"

On page 51, line 25, by adding the following:

"*(2)*"

On page 52, after line 9, to insert the following:

"SECTION 40. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in KRS 342.315, an expert witness shall not be compensated more than two hundred dollars ($200.00) per calendar day on which any part of his deposition occurs."

And to renumber the subsequent sections and intext references as appropriate.

Floor Amendment No. 14 to **HB 1**, by Representative Meyer:

Amend printed copy of **HB 1** on page 35, to delete lines 9 through 12 in their entirety.

Floor Amendment No. 15 to **HB 1**, by Representative Lear:

Amend printed copy of **HB 1** on page 3, line 1, to delete "*non-working*"

and on page 3, line 2 before the word "partnership" to add the words "*bona fide working*" and to delete the words "*not engaged in construction*"

and on page 3, line 3, to delete "*work or in the severance or processing of coal,*"

and on page 3, line 6, to delete "*non-working*"

and on page 3, line 11, to delete "*and working partners*"

and on page 3, line 12, following "*chapter*" to add "*Persons working in the business of a partnership other than a bona fide working partnership in this chapter shall be deemed employes for all purposes of this chapter. For the purposes of this chapter, a bona fide working partnership shall mean a partnership none of the partnership interests in which have been created for the purpose of avoiding the coverage of this Chapter. A partnership shall not be deemed a bona fide working partnership for the purposes of this chapter if:*

(a) A majority of the working partners receive a salary for their labor on behalf of the partnership; or

(b) A majority of the working partners receive a salary and a very minimal share of the profits of the partnership even though they engage in regular labor on behalf of the partnership; or

(c) A majority of the working partners, even if receiving no salary, receive a very minimal share of the profits of the partnership even though the working partners engage in regular labor on behalf of the partnership."

and on page 3, line 13, to delete the words "*non-working*"

and on page 3, line 14, before the word "have" to add "*of a bona fide working partnership*"

and on page 3, lines 17 through 21, to delete the same

Floor Amendment No. 16 to **HB 1**, by Representative Keith:

Amend printed copy of **HB 1** on page 17, line 13, by deleting the words "*at the rate of forty percent (40%)*",

line 14, by deleting the words "*upon the amount of workers' compensation*",

lines 15 through 25, by deleting lines 15 through 25 in their entirety, and by inserting in their place, the following: "*on ever taxpayer engaged in severing and/or processing coal within this Commonwealth at the rate of one percent (1%) of the gross value of all coal severed and/or processed during the reporting period, effective for all reporting periods beginning after October 31, 1987. The assessment shall be reported on the same form and paid in the same manner as the tax imposed under the provisions of KRS Chapter 143. The assessment shall be paid to the revenue cabinet, which shall deposit the funds collected to the credit of the benefit reserve fund within the Kentucky workers' compensation funding commission. The terms "coal", "severed", "severing", "taxpayer", "gross value", "reporting period" and "processing", and any other terms applicable to the administration of the provisions of this paragraph shall mean the same as such terms defined in KRS 143.010. Sections KRS 143.035, 143.040, 143.050, 143.060, 143.070 and 143.080 which are applicable to the administration of the provisions of this paragraph, are hereby adopted.*

(c) Any taxpayer who fails to file required returns or remit the assessment due under paragraph (b) of this subsection shall be guilty of a misdemeanor and upon conviction thereof shall be fined an amount not to exceed one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months, or both."

Page 19, line 12, by inserting after the subsection number "(3)" the word *The*, by bracketing and striking through the word "All", by inserting after the bracket following the word ~~and~~ the words, *assessment provided for in*, and by bracketing and striking through the words "assessments imposed by",

line 13, by deleting the bracket before the word "subsection" and by deleting the strikes through the word "subsection", by adding, following the word "subsection", *(1)(a)*, by bracketing the subsection number "~~(2)~~", and by deleting the strikes through and the bracket following the word "of",

line 26, by deleting the words "*Such assessments*", and inserting in their place the words, *The assessment provided for in subsection (1)(a) of this section.*

Page 20, line 11, by deleting the word "*assessments*" and inserting in its place the word *assessment*,

line 12, by deleting the word "*herein*", and inserting in its place the words, *under the provisions of subsection (1)(a)*,

line 17, by deleting the word "*a*", and inserting in its place the word, *the*, and by inserting after the word "*assessment*" the words, *provided for in subsection (1)(a) of this section.*

Page 24, line 17, by deleting the word "*Assessments*" and inserting in its place the words, *The assessment*, and by adding after the word "*to*" the words, *subsection (1)(a) of*.

Page 25, line 5, by adding after the word "*carrier*" the words, *or taxpayer*.

Page 82, lines 25 and 26, by deleting lines 25 and 26 in their entirety.

Page 83, lines 1 through 25, by deleting lines 1 through 25 in their entirety, and by renumbering subsequent subsections to conform.

Floor Amendment No. 17 to **HB 1**, by Representative Seum:

Amend printed copy of **HB 1** on page 17, between lines 25 and 26 by inserting the following:

"*(c) Premiums received from a new employer, with fewer than one hundred (100) employes, in the Commonwealth of Kentucky shall not be assessed at the full rate stated in paragraphs (a) and (b) of this subsection. Rather, a new employer, with fewer than one hundred (100) employes, in the Commonwealth of Kentucky shall be assessed at:*

1. Twenty percent (20%) of the assessment rate in paragraph (a) or (b) or both as applicable during the first year of the new employer's existence.

2. Forty percent (40%) of the assessment rate in paragraph (a) or (b) or both as applicable during the second year of the new employer's existence;

3. Sixty percent (60%) of the assessment rate in paragraph (a) or (b) or both as applicable during the third year of the new employer's existence;

4. Eighty percent (80%) of the assessment rate in paragraph (a) or (b) or both as applicable during the fourth year of the new employer's existence; and

5. One hundred percent (100%) of the assessment rate in paragraph (a) or (b) or both as applicable during the fifth year of the new employer's existence and each year thereafter.

(d) To qualify as a new employer pursuant to paragraph (c) of this subsection, an employer annually shall submit evidence to the Kentucky workers' compensation funding commission, on forms provided by the funding commission, in support of the claim of that status.

(e) No employer shall qualify as a new employer by:

1. Changing its name;

2. Amending its articles of incorporation; or

3. Succeeding to or acquiring any portion of an organization, trade, business, corporation, partnership, or other business entity.

And on page 123, between lines 8 and 9, to insert the following:

"*(b) Any insurance carrier that refuses to write insurance to a new employer because of its status as a new employer conferred by KRS 342.122 shall be fined not less than two hundred dollars ($200) nor more than two thousand ($2,000) for each offense.*"

And on page 123, line 9 by striking "*(b)*" and inserting in lieu thereof "*(c)*";

And on page 123, line 23, by striking "*(c)*" and inserting in lieu thereof "*(d)*";

And on page 124, between lines 3 and 4, to insert the following:

"*(e) Any person who makes a false submission of a report in violation of KRS 342.122(1)(d) shall, for each offense, be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000) for each offense.*"

And on page 125, between lines 1 and 2, to insert the following:

"(c)" Any person who makes a false submission of a report in violation of KRS 342.122(1)(d) shall, for each offense, be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000), or imprisoned for not less than thirty (30) days nor more than one hundred and eighty (180) days, or both."

Floor Amendment No. 18 to **HB 1**, by Representative Cyrus:

Amend printed copy of **HB 1** on page 103, line 17, by deleting the following new language: "*multiplying (103.5—.42) times*"; and by inserting in lieu thereof the following new language: "*the formula (103.5—0.42X), where X equals*"

Floor Amendment No. 19 to **HB 1**, by Representative Cyrus:

Amend printed copy of **HB 1** on page 3, line 1, by deleting the word "*non-working*" and replacing that word with the word "*qualified*"

And on page 3, lines 2 and 3, by deleting the following: "*not engaged in construction work or in the severance or processing of coal*";

And on page 3, line 6, by deleting the word "*non-working*" and replacing that word with the word "*qualified*";

And on page 3, line 11, by deleting the word "*working*" and replacing that word with the word "*non-qualified*";

And on page 3, line 13, by deleting the word "*non-working*" and replacing that word with the word "*qualified*";

And on page 3, by deleting lines 17 through 21 in their entirety except for "*(3)*" and inserting following "*(3)*" the following:

"*For the purpose of this section "qualified partner" means a partner who has entered into a meaningful partnership agreement which shows on its face that the partner will substantially participate in the profit or loss of the business engaged in by the partnership and that the partner has made some contribution to the partnership which entitles him to participate in the profits of the business as well as to participate in the decision-making process of the partnership.*

(4) For the purposes of this section "non-qualified partner" means a person who has entered into a partnership agreement which shows on its face that this person will receive regular payments in exchange for work for the business engaged in by the partnership; that the person will not participate in the decision-making of the partnership and will not participate in the profits and losses of the business engaged in by the partnership."

And on page 88, line 9, by deleting the word "*every*"

And on page 88 by deleting lines 10 through 13 in their entirety;

Floor Amendment No. 20, to **HB 1**, by Representative Stumbo:

Amend printed copy of **HB 1** beginning on page 99, line 11, by removing SECTION 57 in its entirety;

On page 96, line 3, by deleting the new language

On page 97, after line 5, by adding the following new subsection:

(c) Notwithstanding any other provision of this chapter, an employe who has a radiographic classification of category 1/0, 1/1 or 1/2, based on the latest ILO International Classification or Radiographics, shall be paid a permanent partial disability benefit equal to sixty-six and two-thirds percent (66 2/3%) of the employe's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determind by KRS 342.740, multiplied by his percentage of disability caused by the injury or occupational disease as determined by "guides to the evaluation of permanent impairment," American medical association,

1977 edition, or by his percentage of disability as determined under KRS 342.620(11), whichever is greater, for a maximum period, from the date the disability arises, of four hundred twenty-five (425) weeks. Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of KRS Chapter 342 to the contrary, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

On page 16, line 10, following "*commission,*" by inserting: "*financing the administration and operation of the coal workers' fund*"

On page 16, lines 16 and 17, by deleting:

"*twenty-three and three tenths percent (23.3%)*"

And by inserting in lieu thereof: "*sixteen and one-tenth percent (16.1%)*"

On page 17, line 3, after the "." by adding:

"*The special fund assessment imposed in this paragraph, shall not be imposed upon premiums received from employers engaged in the severance or processing of coal or from premiums of employers carrying their own risk who are engaged in the severance or processing coal*"

On page 17, by deleting lines 11 through 25 and by inserting in lieu thereof:

"*(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional assessment is hereby imposed on every taxpayer engaged in severing and/or processing coal within this Commonwealth at the rate of forty (40) cents per ton of all coal severed and/or processed during the reporting period, effective for all reporting periods beginning after December 31, 1987. The assessment shall be reported on the same form and paid in the same manner as the tax imposed under the provisions of KRS Chapter 143. The assessment shall be paid to the revenue cabinet, which in turn shall deposit the funds collected to the credit of the coal workers' fund within the Kentucky workers' compensation funding commission. The terms "coal", "severed", "severing", "taxpayer", "gross value", "reporting period" and "processing", and any other terms applicable to the administration of the provisions of this paragraph shall mean the same as such terms defined in KRS Chapter 143. Any other provisions of KRS Chapter 143 necessary to the administration of the provisions of this paragraph, including the penalties imposed under the provisions of KRS 143.990, are hereby adopted.*

On page 18, line 2, by removing "*special fund*" and on lines 12 and 13, by deleting "*seventy million dollars ($70,000,000)*" and

by inserting in lieu thereof: "*forty-eight million dollars ($48,000,000)*" and

On page 18, line 15, by deleting "*forty million dollars ($40,000,000)*"

and inserting in lieu thereof: "*sixty-two million dollars ($62,000,000)*"

On page 18, line 19, by deleting "*special fund*"

On page 19, line 2, by deleting "*special fund*"

On page 19, line 11 after the "." by adding:

"*Provided, however, that the assessment rate imposed in paragraph (b) of this subsection shall not exceed fifty (50) cents per ton of coal*"

On page 19, line 15, by bracketing and striking through:

"and shall be credited to the"

On page 19, lines 15, 16 and 17 by removing the new language

On line 26, by removing "*Such assessments*" and by inserting in lieu thereof:

"*The assessments imposed in paragraph (a) of subsection (l) of this section*"

On page 20, line 5, by deleting "*herein*" and by adding after "*imposed,*" the words "*in paragraph (a) of subsection (l) of this section*"

On page 20, line 11, by deleting "*special fund*" and on line 12 by deleting "*required herein*" and by inserting in lieu thereof "*imposed in paragraph (a) of subsection (l) of this section*"

On page 20, line 17, by deleting "*a special fund assessment*" and by inserting in lieu thereof: "*the assessment imposed in paragraph (a) of subsection (l) of this section*"

On page 21, line 2, by deleting "*special fund*"

On page 99, after line 10, by adding the following new section and by renumbering the remaining sections and in-text references accordingly.

On page 119, line 18, after "*fund*" by adding, "*, the coal workers' fund*"

On page 119, line 21 after the "." by adding:

"*Provided, however, that the funds collected pursuant to paragraph (a) and paragraph (b) in subsection (1) of Section 13 of this Act shall be invested and maintained separately*"

On page 119, after line 21, by adding the following new section:

SECTION 71. A NEW SECTION IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created in the state treasury a coal workers' fund, hereinafter referred to as the "fund" to be administered by the Kentucky workers' compensation funding commission created pursuant to this Act.

(2) Money in the fund shall be used for the payment of current workers' compensation awards made pursuant to this chapter, for injuries and diseases resulting from employment in the coal mining industry, in accordance with the apportionment provisions in this chapter.

Floor Amendment No. 21 to **HB 1**, by Representative Gregory:

Amend printed copy of **HB 1** on page 34, line 8, by inserting a bracket before the word "The" and striking through the words "members of the board shall have the";

And on page 34, line 9, by striking through the words "qualifications required of" and deleting the words "*appeals court*" and removing the brackets before and after "circuit";

And on page 34, line 10, by striking through the word "judges" and inserting a bracket after "judges" and by deleting the words "*, except for residence in a district, and shall*"

And on page 34, by deleting line 11 in its entirety;

And on page 34, line 12, by deleting the words "*standards of conduct*"

Floor Amendment No. 22 to **HB 1**, by Representative R. Jones:

Amend printed copy of **HB 1** on page 6. beginning on line 26 by removing Section 7 in its entirety and renumbering the Sections accordingly;

And on page 11, lines 12 and 13, by deleting the following:

"*except retraining incentive benefits awarded pursuant to Section 55 of this Act,*";

And on page 25, line 26, by deleting the following:

"*except as provided in subsection (2) of this*";

And on page 26, line 1, by deleting the word, "*section,*";

And on pages 26 and 27, by deleting subsection 2 in its entirety and renumbering the succeeding subsection;

And on page 43, by deleting lines 3 and 4 in their entirety;

And on page 54, lines 15 through 19, by deleting the following:

"*, except that the time of the beginning of retraining incentive benefits awarded under Section 57 of this Act shall be the date the award for such benefits by the administrative law judge becomes final*"

And on page 61, line 3, by deleting the following:

"*or retraining incentive*"

And on page 65, lines 21 and 22, by removing the following: "*Except as provided in paragraph (c) of this subsection,*";

And on page 67, by deleting lines 3 through 6 in their entirety;

And on page 99, line 14, by deleting the following:

"*and retraining incentive benefits*";

And on page 99 by deleting lines 17 through 26;

And on page 100, by deleting lines 1 through 15 and relettering the succeeding paragraphs.

Floor Amendment No. 23 to **HB 1**, by Representative Rapier:

Amend printed copy of **HB 1** on page 38, line 25, following the word, "*commissioner*" add a period ".";

And on page 38, line 25, following [~~director~~] add the following:

"*The board may remove*"

And to place brackets and strikethroughs around the word "or",

And on page 38, line 26, following the word "judge" to add "*for cause*"

Floor Amendment No. 24 to **HB 1**, by Representative Rapier:

Amend printed copy of **HB 1** on page 5, delete lines 12 through 14 and insert in lieu thereof the following:

"*When an employe reports an injury alleged to be work-related or files an application for adjustment of a claim he shall, at the same time, file a board-approved waiver of any physician-patient, chiropractor-patient, psychiatrist-patient or psychologist-patient*";

And on page 5, line 19, after the word "*podiatrist*" insert the following:

"*psychiatrist, psychologist,*"

Floor Amendment No. 25 to **HB 1**, by Representative Rapier:

Amend printed copy of **HB 1** on page 3, line 16 by placing brackets and strikethroughs around the word "workmen's" and inserting in lieu thereof "workers'";

And on page 7, line 21, delete the number "*55*" and insert in lieu thereof the number "*57*";

And on page 11, line 13, delete the number "*55*" and insert in lieu thereof the number "*57*";

And on page 26, lines 21 and 25, delete the numbers "*55*" and insert in lieu thereof the numbers "*57*";

And on page 27, line 10, delete the number "*55*" and insert in lieu thereof the number "*57*"

Floor Amendment No. 26 to **HB 1**, by Representative Morris:

Amend printed copy of **HB 1** on page 17, beginning on line 26 through page 19, line 11 by deleting the language in its entirety and by inserting in lieu thereof:

"*(2) On January 31, 1988, and each October 31 thereafter the funding commission shall determine the amount of premiums reported and assessments imposed in subsection (1) of this section for such past period as appropriate. If the funding commission determines that the special fund assessment rate imposed to produce seventy million dollars ($70,000,000) or the additional special fund assessment rate imposed to produce forty million dollars ($40,000,000) are likely to produce more or less than seventy million dollars ($70,000,000) or forty million dollars ($40,000,000) during the next annual period, the commission shall notify the general assembly not later than February 15, 1988 and each February 15th thereafter of such determination. The commission shall, based upon such determination calculate such adjustments to each rate as shall be necessary to provide seventy million dollars ($70,000,000) and forty million dollars ($40,000,000) respectively during the next annual period beginning on April 1 of each year. On or before March 1 of each year, the commission shall notify each insurance company writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the adjusted rates which shall become effective on April 1 of each year, unless modified by the general assembly.*

Floor Amendment No. 27 to **HB 1**, by Representative Rapier:

Amend printed copy of **HB 1** on page 113, line 2, after *(e)* by inserting:

In conjunction with the labor cabinet,;

On page 113, line 7, after *(f)* by inserting:

In conjunction with the labor cabinet,.

Floor Amendment No. 28 to **HB 1**, by Representative Rapier:

Amend printed copy of **HB 1** on page 74, line 8, by adding the following language after "(1)":

"*Until November 1, 1987,*"

page 75, by removing the closing bracket around (3) and beginning on line 16 through line 26 by striking through all of the same and on page 76 by striking through all of line one and by striking through "state," on line 2, and on line 2 and 4 by removing the brackets and on line 4 by continuing the strikethroughs through the end of the line in its entirety and on line 5 by striking through such line and by inserting a closing bracket after the period

page 76, delete line 6 and on line 7 delete "*of this section,*"

page 76, line 10 change "*to*" to "*through*"

page 76, line 16, after "*premiums*" add "*received*" and change "*to*" to "*through*"

page 76, line 17, change "*KRS 345.445*" to "*KRS 342.445*"

page 77, line 2, bracket and strikethrough the words "revenue cabinet" and insert in lieu thereof "*funding commission*"

page 77, line 11, delete "*(1)*" and place a bracket before "every" and strikethroughs on lines 11 through 18 in their entirety and strikethrough "fund tax of two percent (2%)" and delete the opening bracket on line 19

page 78, delete line 1 and "of this section" on line 2

page 78, line 4, after "*1988*" by adding

"*for the period of January 1, 1987 through October 31, 1987,*"

page 120, line 2, after "*full*" add "*by January 1, 1988*" and delete "*within*"

and on line 3, delete "*thirty (30) days from the effective date of this Act*"

on page 120, line 7, delete "*all*"

on page 125, line 12, change "October 31, 1987" to "January 2, 1988"

Floor Amendment No. 29 to **HB 1**, by Representative Rapier:

Amend printed copy of **HB 1** on page 17, beginning on line 23, by removing:

"*The assessments imposed in this subsection shall be in lieu of all other assessments or taxes on such premiums.*"

and after line 25, by adding the following:

"*(c) The assessments imposed in this section shall be in lieu of all other assessments or taxes on such premiums.*"

Floor Amendment No. 30 to **HB 1**, by Representative Ballard:

Amend printed copy of **HB 1** on page 4, line 17, to delete the words *"administrative law judge"*;

And on page 4, line 18, to remove the bracket and strikethroughs from the word "board";

And on page 5, line 4, to delete the words *"administrative law judge"*;

And on page 5, line 5, to remove the brackets and strikethroughs from the word "board";

And on page 8, lines 1 through 17, to remove Section 8 in its entirety;

And on page 9, line 10, to delete the word *"administrative"*;

And on page 9, line 11, to delete the words *"law judge"* and *"administrative law judge"* and to remove the brackets and strikethroughs from the word "board";

And on page 9, line 12, to delete the word "his" and to remove the brackets and strikethroughs from the words "board" and "its";

And on page 10, line 1, to delete the words *"administrative law judge"* and to remove the brackets and strikethroughs from the word "board";

And on page 10, line 14, to delete the word *"administrative"*;

And on page 10, line 15, to delete the words *"law judge"* and to remove the brackets and strikethroughs from the word "board";

And on page 11, line 4, to delete the words *"administrative law"*;

And on page 11, line 5, to delete the word *"judge"* and to remove the brackets and strikethroughs from the word "board";

And on page 12, line 2, to delete "*administrative law judge*" and to insert in lieu thereof *"board"*

And on pages 12 and 13, to remove Section 11 in its entirety;

And on page 25, line 24, to delete the words *"administrative law judge"*;

And on page 25, line 25, to remove the brackets and strikethroughs from the word "board";

And on page 26, line 3, delete the word *"his"*;

And on page 26, line 4, to remove the brackets and strikethroughs from the word "its";

And on page 26, line 5, to delete the word *"his"* and to remove the brackets and strikethroughs from the word "its";

And on page 27, line 18, to delete the words *"administrative law judge"* and to remove the brackets and strikethroughs from the word "board";

And on page 27, line 23, to delete the words *"administrative law judge"* and to remove the brackets and strikethroughs from the word "board";

And on page 29, lines 10 through 23, to remove Section 18 in its entirety;

And on pages 29 and 30, to remove Section 19 in its entirety;

And on pages 30 and 31, to remove Section 20 in its entirety;

And on pages 32 and 33, to remove Section 22 in its entirety;

And on page 33, lines 7-26 to delete the same;

And on page 34, lines 1-26 to delete the same;

And on page 35, lines 1-12 to delete the same;

And on pages 35 and 36, to delete Section 24 in its entirety;

And on page 37, line 8, to delete the words "*, administrative law judges*";

And on page 37, line 23, to delete the word "*and*";

And on page 37, line 24 to delete "*the administrative law judges*"

And on page 37, line 25, to delete "*and administrative law judges*"

And on page 38, line 4, to delete the words "*ten (10) administrative law judges*" and to remove the bracket and strikethroughs from the word "the";

And on page 38, line 5, to remove the strikethroughs;

And on page 38, line 6, to remove the bracket and strikethroughs from the word "board" and to delete the words "*have the qualifications of a*";

And on page 38, to delete lines 7 and 8 in their entirety;

And on page 38, line 9, to delete the words "*standards of conduct*" and to remove the bracket and strikethroughs from the words "be an attorney admitted to practice";

And on page 38, line 10, to remove the strikethroughs;

And on page 38, line 11, to remove the bracket and strikethroughs from the words "three (3) years" and to delete the words "*administrative law judges*" and to insert in lieu thereof the words "*officer upon the direction of the commissioner*";

And on page 38, line 12, to remove bracket and strikethroughs;

And on page 38, line 13, to remove bracket and strikethroughs from the word "board";

And on page 38, line 15, to insert after the word "*and*" the words "*the commissioner or the board except that such hearing officers*";

And on page 38, line 16, to remove the brackets and strikethroughs from the word "not";

And on page 38, line 17, to remove the bracket and strikethroughs from the word "However";

And on page 38, line 18, to remove the brackets and strikethroughs from the words "such" and "Hearing officers" and delete the words "*Administrative law judges*";

And on page 38, line 19, to remove the brackets and strikethroughs from the words "on behalf of the board";

And on page 38, line 26, to delete the words "*administrative law judge*" and to remove the strikethroughs from the words "hearing officer" and to place the brackets before the word "upon";

And on page 39, lines 10 and 11, to delete the words "*and those of the administrative law judges*";

And on page 39, lines 13 and 14, to delete the words "*and the administrative law judges*";

And on page 39, line 20, to delete the words "*an administrative law judge or*";

And on page 39, lines 25 and 26, to delete the words "*and the administrative law judges*";

And on page 40, line 4, to delete the words "*each administrative law judge and*";

And on page 40, line 26, to delete the words "*and the work of the administrative law*";

And on page 41, line 1, to delete the word "*judges*";

And on page 41, line 7, to delete the words "*or any administrative law judge*";

And on page 41, line 14, to delete the words "*and administrative law judges*";

And on page 41, line 17, to delete the words "*or any administrative law judge*";

And on page 41, line 21, to remove the brackets and strikethroughs from the word "or" and to delete the "," comma after the word "board" and to delete the words "*or any administrative*";

And on page 41, line 22, to delete the words "*law judge,*";

And on pages 41 and 42, to remove Section 30 in its entirety;

And on page 43, line 6, to delete the words "*within thirty (30) days*" and to remove the brackets and strikethroughs from the words "as soon as possible";

And on page 43, line 11, to delete the words "*the pre-hearing conference*" and remove the bracket and strikethroughs from the word "such";

And on page 43, line 12, to remove the bracket and strikethroughs;

And on page 43, line 13, to remove the bracket and strikethroughs;

And on page 43, line 14, to remove the bracket and strikethroughs from the words "authorized by the board, the hearing" and to delete the words "*The pre-hearing*";

And on page 43, line 15, to delete the word "*conference*";

And on page 43, line 16, to delete the words "*employe resides provided that such hearing shall*";

And on page 43, line 17, to delete the words "*be held within the boundaries of the Commonwealth*" and to remove the bracket and strikethroughs from the word "injury";

And on page 43, lines 18 and 19 to remove the brackets and strikethroughs;

And on page 43, line 20 to insert a bracket and the words "*the commissioner*" after the word "director" and to remove the strikethroughs from the words "or a" and to remove the bracket after the word "a" and to delete the words "*At the pre-hearing conference, and*";

And on page 43, line 21, to delete the words "*administrative law judge*" and to remove the bracket and strikethroughs from the words "hearing officer authorized by";

And on page 43, line 22, to remove the brackets and strikethroughs from the words "the board" and "may" and to delete the word "*shall*";

And on page 43, line 23, to delete the words "*and their counsel if any, for the*";

And on page 43 to delete lines 24 through 26 in their entirety;

And on page 44, to delete lines 1 through 5 in their entirety;

And on page 44, line 6, to delete the words "*become a part of the record*" and to remove the bracket and strikethroughs from the words "in and attempt to assist in";

And on page 44, lines seven through nine to remove the bracket and strikethroughs;

And on page 44, line 11, to delete "*administrative*";

And on page 44, line 12, to delete "*law judge*" and to remove the bracket and strikethrough from the word "board"

And on page 44, line 17, to delete the words "*administrative law judge*" and to remove the brackets and strikethroughs from the word "board";

And on page 44, beginning on line 23 by deleting Section 32 in its entirety;

And on page 46, beginning on line 6, by deleting section 33 in its entirety;

On page 46, lines 24-25 by deleting the words "*administrative law judge*"; and

On page 46, line 25, by deleting the brackets and strikethroughs around the word "board"; and

On page 47, lines 2-3, by deleting the words "*in accordance with administrative regulations promulgated by the board*"; and

On page 47, lines 4-5, by deleting the brackets and strikethroughs; and

On page 47, line 4, by inserting before the word "twenty" the phrase "*thirty (30)*" and by bracketing and striking through the word "twenty"; and

On page 47, line 6, by deleting "*workers' compensation board*"

and inserting in lieu thereof "*court of appeals*"; and

On page 47, lines 9-12 by deleting the brackets and strikethroughs; and

On page 47, lines 13-23 by deleting the brackets and strikethroughs; and

On page 47, line 19, by inserting "*Court of Appeals*" before the word "circuit court" and by placing brackets around and striking through the words "circuit court"; and

On page 47, line 21, by inserting "*Court of Appeals*" before the word "circuit court" and by placing brackets around and striking through the words "circuit court"; and

On Page 47, line 23, to add the words "*Court of Appeals*" and to place brackets around the words "*circuit court*"; and

On page 47, line 25, by deleting the word "*board*" and inserting in lieu thereof the words "*Court of Appeals*"; and

On page 48, line 2, by deleting the word "*board*" and inserting in lieu thereof the words "*Court of Appeals*"; and

On page 48, line 4 by deleting the words "*administrative law judge*"; and

On page 48, line 5 by deleting the brackets and strikethroughs around the word "board"; and

On page 48, line 6, by deleting the word "*board*" and by deleting the brackets and strikethroughs around the word "court"; and

On page 48, line 7 by deleting the words "*administrative law judge*"; and

On page 48, line 8, by deleting the brackets and strikethroughs around the word "board"; and

And on page 48, line 11, to delete the words "*administrative law judge*" and to remove the brackets and strikethroughs from the word "board";

And on page 48 beginning on line 23 and on page 49, to delete subsection (3) in its entirety;

And on page 49, line 17, by placing a bracket before the word "all" and striking through the words "all matters subject to review by the" and by deleting the word "*board*";

And on page 49, line 18, by removing the bracket before the word "circuit" and by removing the bracket after the word "court" and by inserting a bracket after the word "also" and by striking through the words "and also";

And on page 49, lines 23 through 26, to remove the strikethroughs;

And on page 50, line 1, to remove the strikethroughs and bracket;

And on page 51, lines 1 through 22, to remove Section 38 in its entirety;

And on page 51 and 52, to remove Section 39 in its entirety;

On page 52, line 12, to delete "*an administrative law judge*"

On page 52, lines 12 and 13 to remove the brackets and strikethroughs from the words "the board, or any member thereof,"

On page 52, line 14, to delete "*his*"

On page 52, line 14, to remove the brackets and strikethroughs from the word "*its*"

On page 52, lines 18 and 19, to delete "*administrative law judge*"

On page 52, line 19, to remove the brackets and strikethroughs from the word "board"

On page 52, line 22, delete "*administrative law judge*"

On page 52, line 22, to remove the brackets and strikethroughs from the word "board"

On page 52, line 25, to delete "*administrative law judge*"

On page 52, line 25, to remove the brackets and strikethroughs from the word "board"

On page 53, line 2, to delete "*administrative law judge*"

On page 53, line 2, to delete "*his*"

On page 53, line 2, to remove the brackets and strikethroughs from the words "its" and "board"

On page 53, line 9 and 10, to delete "*administrative law judge's*"

On page 53, line 10, to remove the brackets and strikethroughs from the word "boards"

On page 54, line 18, to delete the words "*administrative law judge*" and to insert in lieu thereof the word "*or*"

On page 59, line 17, to delete "*an administrative law judge*"

On page 59, line 18, to remove brackets and strikethroughs from the words "the board"

On page 59, line 20, to delete "*administrative law judge*"

On page 59, line 20, to remove the brackets and strikethroughs from the word "board"

On page 59, line 21, to delete "*pre-hearing conference*"

On page 59, line 21, to remove brackets and strikethroughs from the word "hearing"

On page 59, line 25, to delete the words "*administrative law judge*" and to insert in lieu thereof the word "*board*"

On page 65, lines 4 and 5, to delete the words "*administrative law judge*"; and

On page 65, line 5, to delete the bracket and strikethrough of the word "board"

And on page 67, lines 11 and 12, to delete "*administrative law judge pursuant to the statutes and any administrative regulations*";

And on page 67, line 12, to remove brackets and strikethroughs from the word "board";

And on page 68, line 3, to delete "*administrative law judge*";

And on page 68, line 3, to remove the brackets and strikethroughs from the word "board";

And on page 68, lines 7 and 8, to delete "*administrative law judge*";

And on page 68, line 8, to remove the brackets and strikethroughs from the word "board";

And on page 68, line 17, to delete "*administrative law judge*";

And on page 68, line 17, to remove the brackets and strikethroughs from the word "board";

And on page 68, line 22, to delete "*administrative law judge*" and to insert in lieu thereof "*board*";

And on page 68, line 26, to delete "*administrative law judge*" and to insert in lieu thereof "*board*";

And on page 69, line 5, to delete "*administrative law judge*" and to insert in lieu thereof "*board*";

And on page 70, line 11, to delete "*administrative law judge*" and to remove the brackets and strikethroughs from the word "board";

And on page 70, line 14, to delete "*administrative law judge*" and to remove the brackets and strikethroughs from the word "board";

And on page 71, line 3, to delete "*administrative law judge*" and to insert in lieu thereof "*board*";

And on page 71, line 4, to delete "*administrative law judge*" and to insert in lieu thereof "*board*";

And on page 71, line 9, to delete the words "*the administrative law judge*" and to insert in lieu thereof the word "*board*";

And on page 71, lines 18 through 25, to delete the same and to renumber the succeeding sections and in text references;

And on page 73, lines 8 and 9, to delete "*or administrative law judge*";

And on page 89, lines 20 through 26, to delete the same;

And on page 90, lines 1 through 26, to delete the same;

And on pages 91, lines 1 through 19, to delete the same;

And to renumber the succeeding sections and in text references;

And on page 93, lines 4 and 5, to delete "*administrative law judge*";

And on page 93, line 5, to remove the brackets and strikethroughs from the word "board";

And on page 93, lines 6 and 7, to delete "*administrative law judge*";

And on page 93, line 7, to remove the brackets and strikethroughs from the word "board";

And on page 93, line 7, to delete "*his*";

And on page 93, line 7, to remove the brackets and strikethroughs from the word "its";

And on page 93, lines 15 and 16, to delete "*administrative law judge*";

And on page 93, line 16, to remove the brackets and strikethroughs from the word "board";

And on page 93, line 19, to delete "*administrative law judge*";

And on page 93, line 19, to remove the brackets and strikethroughs from the word "board";

And on page 93, lines 24 and 25, to delete "*administrative law judge*";

And on page 93, line 25, to remove the brackets and strikethroughs from the word "board";

And on page 94, line 9, to delete "*administrative law judge*"

And on page 94, line 9, to remove the brackets and strikethroughs from the words "the board";

And on page 99, line 17 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 100, line 15 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 100, line 16 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 101, line 4 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 101, line 12 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 101, line 24 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 102, line 6 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 102, line 13 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 103, line 3 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 103, line 6 delete "*administrative law judge*" and insert in lieu thereof "*board*";

And on page 105, line 9, to delete "*administrative law judge*";

And on page 105, line 9, to remove the brackets and strikethroughs from the word "board";

And on page 105, line 9, to delete "*his*";

And on page 105, line 10, to remove the brackets and strikethroughs from the word "its";

And on page 106, line 10 and 11 to remove "*administrative law judge*";

And on page 106, line 11 to remove the bracket and strikethrough of the word "board"

And on page 106, line 14, to remove "*administrative law judge*" and to delete the bracket and strikethrough of the word "board"

And on pages 109 through line 6 on page 111, to remove Section 62 in its entirety;

And on page 111, line 13, to delete "*an*" and "*of the administrative law judge*" and to remove the brackets and strikethrough of the word "board";

And on page 122, line 12, to delete "*administrative law*" and to insert in lieu thereof "*hearing officer*"

And on page 122, line 13 to delete "*judge*" and "*administrative law judge*" and to insert in lieu thereof "*hearing officer*";

And on page 122, line 16, to delete the words "*administrative law judge*" and to insert in lieu thereof "*hearing officer*"

And on page 125, line 6, to delete "KRS 342.123 Creation of Kentucky"

And on page 125, to remove line 7 through 10 in their entirety;

And on page 125, line 11, to remove the word "appropriation-";

And on page 125, to remove lines 12 through 22 in their entirety;

And to renumber the sections and in-text references throughout the bill

Adjournment

Representative Rapier moved that the House adjourn until 11:00 a.m., Monday, October 19, 1987.

The motion that the House adjourn was adopted by voice vote.

MONDAY, OCTOBER 19, 1987

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Billy Hurt, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Cowan and B. Smith.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of October 16, 1987, be dispensed with and the same approved. Agreed.

Introduction of Resolutions

HR 9, by Representatives Blandford, Rapier, Worthington, Richards, and Stumbo: A RESOLUTION adjourning the House of Representatives in memory of Welby C. Hoover.

HR 10, by Representative Blevins: A RESOLUTION in honor of the forest products industry.

HR 11, by Representative Hancock: A RESOLUTION in memory of Dr. Branham Baughman.

HR 12, by Representative Napier: A RESOLUTION honoring Berea College for being named the best small college in the nation by a survey of college and university presidents.

Representative Stumbo moved that the rules be suspended for the purpose of granting floor privileges and inviting an honored guest to address the House of Representatives. Agreed.

The Honorable Albert Gore, Senator from Tennessee, addressed the House of Representatives.

The Election Contest Committee filed the following report:

REPORT OF THE ELECTION CONTEST COMMITTEE

FOR THE 53RD LEGISLATIVE DISTRICT

Donald Humble, the unsuccessful candidate for State Representative in the 53rd Legislative District has commenced this proceeding in the House of Representatives to contest the seating of the successful candidate, Mae Hoover, alleging that she fails to meet the constitutional qualifications for the office in that she has not resided in the district for one (1) year prior to her election.

The boundaries of the 53rd District were changed effective after the election of her deceased husband and before the special election in which she secured the majority vote. The area of Russell County in which she lived for twenty-one (21) years was deleted by law from the 53rd District. Therefore, upon her husband's death on December 16, 1986, and before the special election in January 1987, in an effort to comply with the residency requirements, she moved to Clinton County on December 29, 1986, a part of the 53rd District, and it became her residence.

The issue before the Board then, was Mae Hoover a resident of the 53rd District for one (1) year prior to her election as required by Section 32 of the Kentucky Constitution.

The House of Representatives is the sole judge of the qualifications of its members. Constitution, Section 38.

A review of the pertinent statutes and court decisions indicate that a member must reside in the district from which he is elected. *Grantz v Grauman*, Ky., 302 SW 2nd 364 (1957).

The purpose of the requirement that one live in the geographical area they represent is to insure the representative has acquired a familiarity with the people and the area they represent. *McConnell v Marshall*, Ky. 467 SW 2nd 318 (1971).

A technical reading of case law would compel the conclusion that Mae Hoover was not a resident of the geographical area she was elected to represent and, therefore, should not be seated.

However, she certainly is familiar with the district and its people. She did all that was possible to adjust her residency, and she won the election.

Her situation as far as the change in district boundaries is concerned is certainly a unique factual circumstance, the like of which has apparently never been the subject of an official determination.

This Board unanimously recommends to the House of Representatives as the sole judge of the qualification of its members that Mae Hoover be seated as the Representative of the 53rd Legislative District.

DATED: *October 16, 1987*

SIGNED:

Rep. Dan Seum

Rep. Adrian Arnold

Rep. Rocky Adkins

Rep. Butch Burnette

Rep. Dave Hourigan

Rep. Bobby Richardson, Chm.

Rep, Joe Clarke

Rep. Sid Adams

Rep. Bill McBee

NOTICE

The Election Contest Committee will meet thirty (30) minutes prior to convening of the Session on Monday, October 19, 1987, Room 107, Capitol Annex.

Orders of the Day

HB 2 taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 2** be passed.

On the roll call the vote was yeas 91-Ackerson, Adams, Adkins, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, R. Jones, T. Jones, Keith Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Overstreet, Preston, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 0.

HB 2 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 2** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 1, with Committee Amendments and Floor Amendments attached thereto, taken from Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the Committee Amendment No. 1 to **HB 1**. Agreed.

Representative R. Morris moved the adoption of the Committee Amendment No. 4 to **HB 1**. Agreed.

Representative Cyrus moved the adoption of the Floor Amendment No. 19 to **HB 1**. Agreed.

Representative A. Jones moved the adoption of the Floor Amendment No. 3 to **HB 1**. Agreed.

Representative A. Jones moved the adoption of the Floor Amendment No. 5 to **HB 1**. Agreed.

Representative A. Jones moved the adoption of the Floor Amendment No. 6 to **HB 1**. Agreed.

Representative A. Jones moved the adoption of the Floor Amendment No. 7 to **HB 1**. Agreed.

Representative Meyer moved the adoption of the Floor Amendment No. 10 to **HB 1**. Agreed.

Representative Cyrus moved the adoption of the Floor Amendment No. 18 to **HB 1**. Agreed.

Representative Rapier moved the adoption of the Floor Amendment No. 25 to **HB 1**. Agreed.

Representative Rapier moved the adoption of the Floor Amendment No. 27 to **HB 1**. Agreed.

Representative Rapier moved the adoption of the Floor Amendment No. 28 to **HB 1**. Agreed.

Representative Rapier moved the adoption of the Floor Amendment No. 29 to **HB 1**. Agreed.

Representative Rapier moved that **HB 1**, as amended, be passed.

Representative Morris moved the adoption of the Floor Amendment No. 4 to **HB 1**.

Representative Overstreet inquired whether Floor Amendment No. 4 to **HB 1** was germane to the call.

The Chair ruled Floor Amendment No. 4 to **HB 1** was germane to the call.

Representative Deskins moved that Floor Amendment No. 4 to **HB 1** be laid on the table.

Representative Morris moved the adoption of the Floor Amendment No. 4 to **HB 1**.

On the roll call the vote was yeas 64-Ackerson, Adams, Altman, Ark, Arnold, Ballard, Blevins, Bronger, M. Brown, Bruce, Burch, Burnette, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Deskins, Donnermeyer, Ford, Gedling, Gray, Gregory, J. Harper, Hatcher, Hoover, Hourigan, A. Jones, R. Jones, Kerr, Layman, Lefevers, LeMaster, Lile, Little, Lundergan, Lyne, Mack, Mason, McBee, McElroy, Moberly, Morris, Napier, Nett, Noland, O'Brien, Pritchett, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Siler, R. Smith, Strong, Stumbo, Turner, Worthington, Yates. Nays 31-Adkins, Allen, Barrows, J. Brown, Clarke, Cyrus, Farrow, Freibert, Hancock, Handy, K. Harper, Heleringer, Jackson, Johnson, T. Jones, Keith, Lear, Long, Maggard, Meyer, Noe, Overstreet, Preston, Rapier, Reinhardt, Scorsone, Seum, Todd, Walker, White, Will.

Floor Amendment No. 4 to **HB 1** was adopted.

Representative Morris moved that the vote by which Floor Amendment No. 4 to **HB 1** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Seum moved the adoption of the Floor Amendment No. 17 to **HB 1**. Rejected.

Representative Noe moved the adoption of the Floor Amendment No. 9 to **HB 1**. Rejected.

Representative Stumbo moved the adoption of the Floor Amendment No. 20 to **HB 1**.

On the roll call the vote was yeas 32-Ackerson, Adkins, Allen, Altman, Blevins, Bronger, J. Brown, Bruce, L. Clark, Cline, Deskins, Donnermeyer, Ford, J. Harper, Heleringer, Hoover, Keith, Lefevers, Little, Maggard, Mason, Morris, Napier, Noe, Noland, Overstreet, Preston, Robinson, Siler, Strong, Stumbo, White. Nays 64-Ark, Arnold, Ballard, Barrows, Blandford, M. Brown, Burch, Burnette, Callahan, Casebier, Castleman, P. Clark, Clarke, Crupper, Curd, Cyrus, Farrow, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, K. Harper, Hatcher, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Kerr, Layman, Lear, LeMaster, Lile, Long, Lundergan, Lyne, Mack, McBee, McElroy, Meyer, Moberly, Nett, O'Brien, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Seum, R. Smith, Todd, Turner, Walker, Will, Worthington, Yates.

Floor Amendment No. 20 to **HB 1** was rejected.

Representative R. Jones moved the adoption of the Floor Amendment No. 22 to **HB 1**. Rejected.

Representative Rapier moved that **HB 1**, as amended, be passed.

On the roll call the vote was yeas 80-Ackerson, Allen, Altman, Ark, Arnold, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Burnette, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Kerr, Layman, Lear, LeMaster, Lile, Long, Lundergan, Lyne, Mack, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noland, O'Brien, Overstreet, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Scorsone, Seum, R. Smith, Todd, Turner, Walker, Will, Worthington, Yates. Nays 16-Adkins, Ballard, Deskins, Keith, Lefevers, Little, Maggard, Mason, Noe, Preston, Ridley, Robinson, Siler, Strong, Stumbo, White.

HB 1, as amended, was passed and the title agree to.

Representative Rapier moved that the vote by which **HB 1** as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for the purpose of acting upon Resolutions. Agreed.

Representative Napier moved the adoption of the following **HR 12**:

HR 12, A RESOLUTION honoring Berea College for being named the best small college in the nation by a survey of college and university presidents.

WHEREAS, Berea College was named the top small college in the United States by a survey of college and university presidents in a poll recently released by *U.S. News and World Report*; and

WHEREAS, in achieving this recognition, Berea College was praised for its emphasis on liberal arts and moral values and for serving the economic needs of its students; and

WHEREAS, the long-standing goal of Berea College is to serve the Appalachian region and students from low-income families by providing a tuition-free education; and

WHEREAS, each student's room and board expenses are further reduced by the requirement to work within the college's student industries program, instilling in the students a positive work ethic which will carry into their professional careers; and

WHEREAS, Berea College provides this quality education not only through classroom experiences but by teaching the dignity of labor, and the understanding of cultural differences and laying a foundation for strong moral character; and

WHEREAS, it is the institutional commitment to these high ideals that is the basis for Berea College to be held in such high esteem by top educators throughout the nation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Berea College be honored for its distinction of being selected the top small college in these United States.

Section 2. That in the adoption of this resolution, the House of Representatives does acknowledge the service this institution provides to the Commonwealth of Kentucky, not only for the opportunity it affords our young people, but the positive attention it focuses on higher education efforts in Kentucky.

Section 3. That a copy of this resolution be sent to Dr. John Stephenson, President of Berea College.

HR 12 was adopted by voice vote.

Representative Napier moved that a call of the roll be taken to show co-sponsors to **HR 12**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 12**: Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Curd, Cyrus, Donnermeyer, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Lear, Lefevers, LeMaster, Lile, Long, Lyne, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Overstreet, Preston, Pritchett, Rapier, Reinhardt, Richards, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington.

Representative Hancock moved the adoption of the following **HR 11**:

HR 11, A RESOLUTION in memory of Dr. Branham Baughman.

WHEREAS, Dr. Branham Baughman, prominent Frankfort physician, recently passed away; and

WHEREAS, Dr. Baughman was a vital and well-loved member of the Frankfort community, whose civic and professional contributions will long be remembered; and

WHEREAS, Dr. Baughman's many accomplishments include his having been a founder of the Kentucky Surgical Society, a clinical professor at the University of Louisville, a trustee of the Kentucky Medical Association, and a chairman of the board of the State National Bank; and

WHEREAS, Dr. Baughman authored numerous articles for medical journals; and

WHEREAS, Dr. Baughman was a former president of the Kentucky State Board of Health, former president of the Franklin County Medical Society, former chairman of the Legislative Committee of the Kentucky Medical Association, and held numerous other offices; and

WHEREAS, Dr. Branham Baughman attended to the medical needs of seven of Kentucky's governors and their families; and

WHEREAS, he is survived by his devoted wife, Matilda, and his loving children, John B. Baughman and Mary Baughman Wallace;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House expresses its great sense of loss in the passing of Dr. Branham Baughman and extends its sympathy to his family.

Section 2. That when the House adjourns this day, Monday, October 19, 1987, it does so in memory of Dr. Branham Baughman.

Section 3. That a copy of this resolution be sent to Mrs. Matilda Baughman, Weehawken Lane, Frankfort.

HR 11 was adopted by voice vote.

Representative Blevins moved the adoption of the following HR 10:

HR 10, A RESOLUTION in honor of the forest products industry.

WHEREAS, the forest products industry has played an enduring and vital role in the economic life of our Commonwealth, from the growing and harvesting of trees to the manufacture of wood and paper products; and

WHEREAS, the demand for wood products is projected to grow throughout this century and into the next; and

WHEREAS, the forest products industry will continue to employ numerous residents of Kentucky in both the forest and the factory as they work to meet this growing demand; and

WHEREAS, wood is a renewable resource which will never be depleted so long as our foresters and natural resource professionals continue to find ways to effectively manage our forests; and

WHEREAS, the Governor of the Commonwealth of Kentucky has proclaimed the week of October 19 through 23, 1987 as Forest Products Week;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

That the House of Representatives of the General Assembly recognizes the value of this industry to the Commonwealth and does hereby join the Governor in celebrating the week of October 19 through 23, 1987 as Forest Products Week.

HR 10 was adopted by voice vote.

Representative J. Harper moved that the rules be suspended for introduction of and action upon a Resolution. Agreed.

HR 13, by Representative J. Harper: A RESOLUTION honoring the Courier Journal, R. G. Dunlop and Richard Whitt.

Representative J. Harper moved the adoption of the following HR 13:

HR 13, A RESOLUTION honoring the Courier Journal, R. G. Dunlop and Richard Whitt.

WHEREAS, a free and uncensored press is the cornerstone of democracy; and

WHEREAS, it is the duty of a free and uncensored press to aggressively bring to light any challenges to our fundamental concepts of democracy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Courier Journal, R. G. Dunlop and Richard Whitt be commended for their outstanding

journalistic efforts in the recent series of articles entitled, "Winning At Any Cost, How Money Poisons Kentucky Elections."

Section 2. That all citizens of our Commonwealth be encouraged to take it upon themselves to help preserve and protect our most cherished process of free elections by refusing to tolerate those who would stoop to "winning at any cost."

Section 3. That copies of this resolution be delivered to the Courier Journal, R. G. Dunlop, Richard Whitt and the Kentucky State Board of Elections.

HR 13 was adopted by voice vote.

Representative Stumbo moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions: Representative T. Jones, HB 1; Representative Will, HR 5.

Announcements

Representative Stumbo moved that no further business be conducted upon the House floor except the entertainment of motions for recess and adjournment. Agreed.

Representative Stumbo moved that when the House adjourns, it do so until the hour of 10:00 a.m., October 20, 1987. Agreed.

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Recess

Representative Stumbo moved that the House recess until 4:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Tuesday, October 20, 1987.

The motion that the House adjourn was adopted by voice vote.

TUESDAY, OCTOBER 20, 1987

FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend William R. Jennings, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Ackerson, Barrows, Cowan, Deskins, Heleringer, Johnson, R. Jones, Little, Lundergan, Overstreet, Priddy, and B. Smith.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of October 19, 1987, be dispensed with and the same approved. Agreed.

Introduction of Resolutions

HR 14, by Representatives Donnermeyer, McBee, Kerr, Callahan, K. Harper, Meyer, Walker, Reinhardt, and Crupper: A RESOLUTION recognizing the organizations participating in the Northern Kentucky Legislative Weekend.

Motions, Petitions and Communications

Representative B. Richardson moved the adoption of the Election Contest Report for the 53rd District seat. Agreed.

Representative Stumbo moved that the rules be suspended to act upon Resolutions. Agreed.

Representative Donnermeyer moved the adoption of the following HR 14:

HR 14, A RESOLUTION recognizing the organizations participating in the Northern Kentucky Legislative Weekend.

WHEREAS, the Northern Kentucky Legislative Caucus recently sponsored the third Northern Kentucky Legislative Weekend; and

WHEREAS, held every two years, the Northern Kentucky Legislative Weekend is an opportunity for all of the members of the General Assembly to experience the hospitality and congeniality of the Northern Kentucky area; and

WHEREAS, by showcasing the citizens and communities throughout Northern Kentucky during this weekend, the members of this august body are sensitized to the needs and concerns of this vital area of the Commonwealth; and

WHEREAS, it would be impossible for the Northern Kentucky Legislative Caucus to sponsor this popular event without the assistance and cooperation of numerous individuals, businesses and organizations throughout the area;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this honorable body do hereby recognize and commend the following

patrons, sponsors and participating organizations for their commitment, dedication and financial sponsorship of the Northern Kentucky Legislative Weekend:

Patrons

Benson's Inc.

Cincinnati Bell

Drawbridge Inn

Fifth Third Bank of Kentucky

Huntington Banks of Kentucky

Kenton County Airport Board

Kentucky National Bank

The Kentucky Post

Kentucky Soft Drink Association

N.S. Group, Inc.

Northern Kentucky Chamber of Commerce

Northern Kentucky Convention and Visitors Bureau

Transit Authority of Northern Kentucky

Turfway Park

Union Light, Heat and Power

Sponsors

Booth Memorial Hospital

Carlisle Construction Company

Central Trust of Northern Kentucky

Salmon P. Chase Alumni Club

Comprehensive Care Centers of Northern Kentucky

Corporex Companies, Inc.

Deters, Benzinger & LaVelle, PSC

Dinsmore & Shohl

The Drees Company

Ft. Thomas—Bellevue Bank

Frost & Jacobs

Gradison Financial Services—Kentucky Office

Paul Hemmer Construction Company

Holbrook & Poston

Home Builders Association of Northern Kentucky Inc.

Hosea Worldwide, Inc.

Kentucky Enterprise Federal

Lazarus

Newport National Bank

Northern Kentucky Area Development District

Peck, Shaffer & Williams

Peoples Liberty Bank

Pilot Contracting Corporation

Robinson, Arnzen, Parry & Wentz

St. Elizabeth Medical Center

St. Luke Hospital

Sunrise Federal Savings & Loan

Participating Organizations

Aristech Chemical

James B. Beam Distilling Co.

Blue Grass Foods

Campbell County Board of Realtors

The Community Bank

Edmonson, Condit & Calvert

Frisch's Restaurants

Gordon Construction Company, Inc.

Hebron Deposit Bank

Kenton-Boone Board of Realtors, Inc.

Northern Kentucky Bank & Trust

Northern Kentucky Municipal Government League

Northern Kentucky University Foundation

Recorder Newspapers

Sears, Roebuck & Co.

Wendling Printing Co.

Arthur Young

Section 2. That the House expresses its deep sense of appreciation for the commitment shown by the aforementioned groups in promoting the Northern Kentucky Communities.

Section 3. That the members extend a heartfelt thank you to the citizens and the entire business community of Northern Kentucky for enabling us to experience the companionship and hospitality of your homes.

Section 4. That the Clerk of the House is hereby directed to transmit a copy of this resolution to Mr. Jack Levermann and Mr. Mark Guilfoyle of the Northern Kentucky Chamber of Commerce, 1717 Dixie Highway, Suite 200, Covington, Kentucky 41011, to be disbursed to the patrons, sponsors and participating organizations honored in this resolution.

HR 14 was adopted by voice vote.

Representative Donnermeyer moved that a call of the roll be taken to show Co-sponsors of **HR 14**. Agreed.

The following members requested that their names be added as Co-sponsors of **HR 14**: Adkins, Allen, Altman, Ark, Arnold, Ballard, Blandford, Blevins, J. Brown, M. Brown, Bruce, Burch, Burnette, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Freibert, Gedling, Gray, Gregory, Guenthner, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, A. Jones, Keith, Kerr, Lear, Lefevers, LeMaster, Lile, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noland, Preston, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Scorsone, Siler, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

Representative Stumbo moved the adoption of the following **HR 9**:

HR 9, A RESOLUTION adjourning the House of Representatives in memory of Welby C. Hoover.

WHEREAS, Welby C. Hoover departed this life unexpectedly last December at the age of fifty; and

WHEREAS, Welby C. Hoover was the Representative-elect of the 53rd House District—sent to Frankfort by the constituents of Clinton, Cumberland, Russell and Wayne Counties; and

WHEREAS, Welby C. Hoover was an active member of the Jamestown City Council from 1970 through 1974 and a committed civic leader; and

WHEREAS, Welby C. Hoover was recognized by his peers in 1974 as Russell County Man of the Year; and

WHEREAS, Welby C. Hoover's leadership and friendship in the communities of Jamestown and Albany will be sorely missed;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this honorable body do hereby express their sense of loss upon the tragic passing of Welby C. Hoover.

Section 2. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day it does so in memory and honor of Welby C. Hoover.

Section 3. That the Clerk of the House is directed to transmit a copy of this resolution to the family of Welby C. Hoover.

HR 9 was adopted by voice vote.

Representative Stumbo moved that a call of the roll be taken to show Co-sponsors of **HR 9**. Agreed.

The following members requested that their names be added as Co-sponsors of HR 9: Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Burnette, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, A. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noland, O'Brien, Preston, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Scorsone, Siler, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

Representative Burnette moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 15, by Representative Burnette: A RESOLUTION adjourning the House of Representatives in honor of poet William Gordon of Arlington, Kentucky

Representative Burnette moved the adoption of the following HR 15:

HR 15, A RESOLUTION adjourning the House of Representatives in honor of poet William Gordon of Arlington, Kentucky.

WHEREAS, the Purchase Poets Club and the Paducah-McCracken County Bicentennial Commission recently sponsored a fine arts contest, including a poetry competition, during the Jackson Purchase Bicentennial Festival; and

WHEREAS, William Gordon captured first place in the rhymed poetry category for his poem "Early Settlers," a lyrical account of our ancestors who braved the unknown elements to settle the early frontier; and

WHEREAS, William Gordon was the recipient of a "Duke of Paducah" certificate and was awarded silver for his creative contribution to the fine arts contest;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body hails and lauds William Gordon of Arlington, Kentucky upon the occasion of winning first place in the rhymed poetry competition during the Jackson Purchase Bicentennial Festival.

Section 2. That the members of the House express their praise and admiration of William Gordon for his sensitive, incisive and moving account of the forefathers of our state in "Early Settlers."

Section 3. That the House proclaims its native son William Gordon to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 4. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Tuesday, October 20, 1987, it does so in honor of poet William Gordon of Arlington, Kentucky.

Section 5. That the Clerk of the House is directed to transmit a copy of this resolution to William Gordon, Donald Mitchell and Roy Gaddie of Arlington, Kentucky; Mrs. Joyce Adams, Box 291, Bardwell, Kentucky 42023; Jane Simmons, Carlisle County News, P.O. Box 309, Bardwell, Kentucky; and the Carlisle County Courier, P.O. Box 509, Bardwell, Kentucky.

HR 15 was adopted by voice vote.

Adjournment

Representative Stumbo moved that the House adjourn until 12:00 Noon, Wednesday, October 21, 1987.

On the roll call the vote was yeas 70—Adkins, Allen, Altman, Ark, Arnold, Ballard, Blandford, Blevins, Bronger, M. Brown, Bruce, Burnette, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Hancock, J. Harper, K. Harper, Hourigan, Jackson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lyne, Maggard,

McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, O'Brien, Preston, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Scorsone, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Yates. Nays 3—LeMaster, Lile, Seum.

The motion to adjourn was adopted.

WEDNESDAY, OCTOBER 21, 1987

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. James Wagner, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, Little, Lundergan, Preston, Priddy, Ridley, and Will.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of October 20, 1987, be dispensed with and the same approved. Agreed.

Introduction of Resolutions

HR 16, by Representative Lyne: A RESOLUTION in memory of Robert R. Brown.

HR 17, by Representative Callahan: A RESOLUTION honoring the Southgate Volunteer Fire Department.

HR 18, by Representative Worthington: A RESOLUTION adjourning the House of Representatives in memory and honor of Coach John Fields of Maysville, Kentucky.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for the purpose of acting upon Legislative Citations and Resolutions. Agreed.

Representative Callahan moved the adoption of the following **HR 17**:

HR 17, A RESOLUTION honoring the Southgate Volunteer Fire Department.

WHEREAS, on the occasion of the 1987 State Fire Convention in Lexington, Kentucky, the Southgate Volunteer Fire Department did participate in the Kentucky Firefighter Olympic Competition, consisting of six tests simulating real-life experiences; and

WHEREAS, the Southgate Volunteer Fire Department was named first among the eleven Fire Company Teams competing; and

WHEREAS, such recognition reflects great determination and outstanding ability;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House commend this first class firefighting squadron, and wish them continued success.

Section 2. That copies of this resolution be sent to the following: Coach/Asst. Chief John Beatsch, Asst. Chief Jim Herman, Lt. Mark Muench, Lt. Eric Muench, Lt. Jeff Rust, F.F. John Rust, F.F. Don Campbell, F.F. Rich Klaserner, and F.F. Paul Melville, c/o the Southgate Volunteer Fire Department, Southgate, Kentucky.

HR 17 was adopted by voice vote.

Representative Callahan moved the adoption of the following Legislative Citation No. 3:

The House of Representatives of the Commonwealth of Kentucky hereby salutes Rose Welscher, dedicated and innovative city clerk of Southgate, Kentucky, who, having helped found the Northern Kentucky Municipal Clerks Association and having served as director of that organization, was recently designated by the N.K.M.C.A. as this year's Outstanding Municipal Clerk. (Sponsored by Representative Callahan)

Agreed.

Representative Lyne moved the adoption of the following HR 16:

HR 16, A RESOLUTION in memory of Robert R. Brown.

WHEREAS, Robert R. Brown served his country in World War II as a member of the United States Air Force from October 1942 to January 1946; and

WHEREAS, Robert R. Brown served as a magistrate for Logan County from January 1962 to December 1969; and

WHEREAS, Robert R. Brown served Logan County as Judge and Judge/Executive from January 1970 to December 1982; and

WHEREAS, Judge Brown's service was marked by dedication and integrity and his numerous contributions to the growth and well-being of his community, including but not limited to industrial growth, medical improvements, road improvements, administrative reorganization, county building renovation, preservation and construction; and

WHEREAS, Judge Brown maintained the office of County Judge/Executive with the dignity, respect and honor proper to that office; and

WHEREAS, his contributions to the people of Logan County are beyond measure and will have lasting impact;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, Wednesday, October 21, 1987, it does so in memory of Robert R. Brown.

Section 2. That a copy of this resolution be sent to the family of Robert R. Brown.

HR 16 was adopted by voice vote.

Representative Lyne moved that a call of the roll be taken to show Co-sponsors of HR 16. Agreed.

The following members requested that their names be added as Co-sponsors of HR 16: Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burnette, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, A. Jones, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noland, O'Brien, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Stumbo, Todd, Turner, Walker, White, Worthington, Yates.

Representative Worthington moved the adoption of the following HR 18:

HR 18, A RESOLUTION adjourning the House of Representatives in memory and honor of Coach John Fields of Maysville, Kentucky.

With heartfelt sorrow we pay homage and tribute to the memory of our fallen brother John Fields:

WHEREAS, on September 18, 1987 John Fields of Maysville, Kentucky crossed that final bourne from which no traveler returns at the age of 72; and

WHEREAS, John Fields was a graduate of Kentucky State University and received a Masters degree from Morehead State University; and

WHEREAS, in 1934 John Fields quarterbacked the Kentucky State College football team to a national championship title; and

WHEREAS, John Fields was a dedicated educator for thirty years in the Maysville Independent School System serving as a history teacher, guidance counselor and assistant basketball coach; and

WHEREAS, while coaching at the John G. Fee High School, John Fields' teams frequently participated in the State Basketball Tournament; and

WHEREAS, over the past several years John Fields had been contributing his immeasurable talents and energy to the higher education system as a counselor at Morehead State University; and

WHEREAS, John Fields was committed to the youth of the Commonwealth and devoted countless hours as a physical director of the YMCA; and

WHEREAS, John Fields was a deeply religious individual, and was an active member and historian of the Scotts United Methodist Church; and

WHEREAS, John Fields' community and civic organizations included membership on the RSVP Board, in fact John Fields was instrumental in initiating the Annual RSVP Golf Tournament, as well as membership in Masonic Lodge #27 FA&N Acacia, the Mason County Fund and the Kentucky State University Alumni Association; and

WHEREAS, John Fields was a loving husband, devoted father, and compassionate friend to all whose presence will be sorely missed throughout the Maysville community;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do hereby express their sense of bereavement and loss upon the passing of John Fields and commend his loved ones to the solace of the Almighty during these dark and painful hours.

Section 2. That the House posthumously hails John Fields to have been an outstanding citizen and exemplary representative of the Commonwealth.

Section 3. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Wednesday, October 21, 1987, it does so in memory and honor of Coach John Fields of Maysville, Kentucky.

Section 4. That the Clerk of the House is hereby directed to transmit a copy of this resolution to Mrs. Alice Wormley and Mrs. Anna B. Frey, East Fifth Street, Maysville, Kentucky 41056; Mr. Charlton Fields, 326 East Fifth Street, Maysville; and to Mr. Bob Bibble, Superintendent of the Maysville Independent School System.

HR 18 was adopted by voice vote.

Representative Morris moved that the rules be suspended for the purpose of introduction of and action upon a Resolution. Agreed.

HR 19, by Representative Morris: A RESOLUTION recognizing the accomplishments of Ms. Jeanne Garvey as Director of the Division of Small Business Assistance.

Representative Morris moved the adoption of the following **HR 19**:

HR 19, A RESOLUTION recognizing the accomplishments of Ms. Jeanne Garvey as Director of the Division of Small Business Assistance.

WHEREAS, Ms. Jeanne Garvey has resigned as Director of the Division of Small Business Assistance effective October 16, 1987; and

WHEREAS, the Division of Small Business Assistance made significant improvements in its service to Kentucky small business under Ms. Garvey's professional leadership; and

WHEREAS, Ms. Garvey brought a measure of stability to the Division of Small Business Assistance, which has had five directors in the past four years; and

WHEREAS, small business is the backbone of Kentucky's economy and is deserving of more attention than it has received from state assistance programs; and

WHEREAS, Ms. Garvey worked very closely with the General Assembly's Small Business Task Force in trying to improve the opportunities for small business development in Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does hereby commend Ms. Jeanne Garvey for the accomplishments made in small business development during her tenure as Director of Small Business Assistance and for her cooperation with the Small Business Task Force.

Section 2. That the House does hereby express its concern with the continuity and stability of the Division of Small Business Assistance.

Section 3. That the Clerk is hereby directed to send a copy of this resolution to Ms. Jeanne Garvey, the staff of the Division of Small Business Assistance, Mr. David Lovelace, Commissioner of the Department of Economic Development and Mr. Carroll Knicely, Secretary of Commerce.

HR 19 was adopted by voice vote.

Representative B. Smith moved that he be recorded as voting "yea" on **HB 1**. Agreed.

Announcements

The following meetings were announced:

Committee on Appropriations and Revenue: 9:00 a.m., October 22, 1987, Room 109.

Central Kentucky Caucus: 1:00 p.m., October 22, 1987, Room 105.

Western Kentucky Caucus: 9:00 a.m., October 22, 1987, Room 327.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, October 22, 1987.

On the roll call the vote was yeas 73—Adkins, Allen, Altman, Ark, Arnold, Blandford, Blevins, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Gedling, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Johnson, A. Jones, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Pritchett, Rapier, B. Richardson, P. Richardson, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Worthington, Yates. Nays 4—Bronger, Heleringer, LeMaster, Lile.

The motion that the House adjourn was adopted.

THURSDAY, OCTOBER 22, 1987

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Father J. Williamson Brown, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Priddy.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of October 21, 1987, be dispensed with and the same approved. Agreed.

Introduction of Resolutions

HR 20, by Representative Hancock: A RESOLUTION urging and praying for the speedy recovery of Garland "Bugs" Wilson, Jr. and urging his swift return to the Capitol.

HR 21, by Representative Richards: A RESOLUTION honoring Kentucky "Teacher of the Year," Brenda Hare McCown.

HR 22, by Representatives Turner, Todd, Napier, and Ford: A RESOLUTION adjourning the House of Representatives in memory and honor of United States Congressman Tim Lee Carter.

HR 23, by Representatives Riner, Blandford, Stumbo, Rapier, Worthington, and Richards: A RESOLUTION urging humanitarian assistance for victims of the war in Afghanistan.

Recess

Representative Stumbo moved that the House recess until the hour of 3:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Announcing passage of **HB 1** with Senate Amendments attached thereto, **HB 2**, and **SCR 15**.

Recess

Representative Stumbo moved that the House recess until 6:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Recess

Representative Stumbo moved that the House recess until 7:30 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 1, with Senate Amendments attached thereto, taken from Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 6 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 46, line 14, delete the words "*following the hearing*" and insert in lieu thereof the words "*after the case is submitted*".

The Senate Amendment No. 9 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 6, line 15 after the word "*Act,*" add "*and periodically thereafter,*";

And on page 6, line 18 after the word "fair" add ", *current,*";

And on page 6, line 20 after the word "are" add "*fair, current, and*".

The Senate Amendment No. 10 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 6, line 17, after the word "fees" to insert a "," comma;

And on page 6, line 17, to bracket and strikethrough the word "and";

And on page 6, line 17, after the word "charges" to insert the words "*and reimbursements*".

The Senate Amendment No. 11 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 4, line 17, after the word "treated." insert the following:

"*The employer, or an insurer on behalf of the employer shall make all payments for services rendered to an employe directly to the provider of such services within thirty (30) days of receipt of a statement for services.*"

The Senate Amendment No. 12 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 6, by deleting line 26 in its entirety;

And on page 7, by deleting lines 1 through 3 in their entirety;

And on page 7, line 4 by deleting the number "*(3)*" and removing the brackets and strikethroughs from the number "(2)".

The Senate Amendment No. 13 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 32, by deleting lines 21 through 26 in their entirety;

And on page 33, by deleting lines 1 through 11 in their entirety.

The Senate Amendment No. 15 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 34, line 20, after the word "governor" to insert the following:

"*with the consent of the Senate*".

The Senate Amendment No. 16 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 39, line 1, after the word "*employ*" to insert the following:

"*with the consent of the Senate for a term of four (4) years*";

And on page 39, lines 6 and 7, to delete the words "*and shall be subject to the same standards of conduct*" and to insert in lieu thereof the following:

", *shall be subject to removal during the term of employment for violation of the code of judicial ethics, and may be employed for additional terms of four (4) years with the consent of the Senate*"

The Senate Amendment No. 20 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 51, line 20, by deleting "*court of appeals*" and by inserting in lieu thereof "*board, if*";

On page 51, line 21, by removing the closing bracket after "court" and by striking through "to which" and by placing a closing bracket after "which"; and by inserting a"," before "may";

On page 51, line 25, by removing the brackets and strike throughs.

The Senate Amendment No. 37 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 6, line 15, by deleting "*the effective date of this Act*" and inserting in lieu thereof "*January 4, 1988*";

And on page 22, line 4, by deleting "*the effective date of this Act*" and inserting in lieu thereof "*passage of this Act and approval by the Governor*";

And on page 36, line 4, by inserting before "the" the following: "*January 4, 1988*" and by striking through and placing a bracket before "the" and on line 5, by striking through "effective date of this" and by deleting "*Act*" and by removing the bracket before "chapter";

And on page 36, line 6, by deleting "*its*" and on line 7 by deleting "*effective date*" and inserting in lieu thereof "*January 4, 1988*";

And on page 56, line 20, by deleting "*the effective*" and on line 21 by deleting "*date of this Act*" and inserting in lieu thereof "*passage of this Act and approval by the Governor*";

And on page 122, line 14, by deleting "*the effective date of this Act*" and inserting in lieu thereof "*passage of this Act and approval by the Governor*";

And on page 123, line 2, by deleting "*the effective date of*" and on line 3 by deleting "*this Act*" and inserting in lieu thereof "*passage of this Act and approval by the Governor*";

And on page 127, line 19, by inserting after "72." the following: "(1)" and by deleting "*On the effective date of this Act*" and inserting in lieu thereof "*Sixty (60) days following the passage of this Act and approval by the Governor*";

And on page 128, line 1, by inserting before "On" the following: "(2)" and by changing "2" to "4";

And on page 130, line 3, by deleting "*On the effective date of this section*" and inserting in lieu thereof "*Sixty (60) days following passage of this Act and approval by the Governor*";

And on page 130, line 21, by deleting "*within*" and on line 22, by deleting "*the effective date of this Act*" and inserting in lieu thereof "*passage of this Act and approval by the Governor*";

And on page 130, by inserting after line 25, the following:

"SECTION 75. Whereas, the unfunded liability of the workers' compensation special fund has a projected unfunded liability of one billion seven hundred million dollars ($1,700,000,000) and the liability of the special fund is increasing at a projected rate of two million dollars ($2,000,000) each week; and

Whereas, the failure to satisfactorily fund the special fund liabilities and the corresponding unpredictability and administrative inefficiency has imposed a substantial burden on the employers of the Commonwealth whose assessments or taxes have heretofore been used to pay the special fund liabilities and costs of administration; and

Whereas, the general assembly recognizes and declares that a streamlined and professional administrative structure is crucial to a successful and efficient workers' compensation program; and

Whereas, the governor of the Commonwealth, in calling the general assembly into extraordinary session for the purpose of solving the workers' compensation problem, has recognized that a crisis exists in workers' compensation, an emergency is declared to exist and the provisions of this Act shall become effective as follows:

(1) The following sections shall become effective upon passage of this Act and approval by the Governor: 4, 5, 7, 10, 12, 13, 14, 15, 16, 21, 24, 28, 41, 48, 49, 50, 51, 52, 54, 55, 56, 61, 63, 64, 65, 66, 67, 68, 69, 70, 71, 73, and 74.

(2) The following sections shall become effective on January 4, 1988: 1, 2, 3, 6, 8, 9, 11, 17, 18, 19, 20, 22, 23, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 45, 46, 47, 53, 57, 58, 59, 60, 62, and 72(2).

(3) Section 72(1) shall become effective sixty (60) days after passage of this Act and approval by the Governor."

The Senate Amendment No. 38 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 111, to delete lines 22 through 26 in their entirety;

And on page 112, to delete lines 1 through 26 in their entirety;

And on page 113, to delete lines 1 through 26 in their entirety;

And on page 114, to delete lines 1 and 2 in their entirety.

The Senate Amendment No. 24 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 39, line 5, to delete the words "*except residence in a district, and*";

And on page 39, line 9, before the word "These" to insert the following:

"*At least one (1) administrative law judge shall be appointed from and reside within each of the seven (7) appellate court districts. No person shall be eligible to serve as an administrative law judge unless such person shall have resided in the appellate court district from which he or she is appointed for at least one (1) year prior to the appointment. The additional administrative law judges shall be apportioned to, appointed from and reside within those appellate court districts from which the greater number of workers' compensation claims arise. The board shall annually review the claims filed to determine the appellate court districts of their origin.*"

The Senate Amendment No. 42 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 18, line 10, by changing "*subsection*" to "*chapter*";

On page 20, line 14, by deleting "*twentieth (20th)*" and by inserting in lieu thereof "*thirtieth (30th)*";

On page 20, by deleting line 16 in its entirety;

On page 20, line 17, before the "." after "*risk*" by adding the following:

"*and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.*";

And on page 20, line 22, after "*section.*" by adding:

"*Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages in effect at the time the statement of the premium is sent to the insured.*";

On page 41, lines 13 and 14, by deleting "*treating or non-treating*";

On page 44, line 15, by deleting "*hearing*" and by inserting in lieu thereof "*pre-hearing conference*";

On page 46, line 3, by deleting "*schedule*" and by inserting in lieu thereof "*hold a hearing on*";

On page 46, lines 3 and 4, by deleting "*for hearing*";

On page 74, line 14, by bracketing and striking through "it" and by inserting in lieu thereof: "*the board and each administrative law judge*";

On page 77, line 10, by inserting before "*and*" "*with the revenue cabinet,*";

On page 77, line 21, after "*assessments*" by adding "*and other taxes*";

On page 79, line 2, after "*file*" by inserting "*with the revenue cabinet*";

On page 83, line 26, after "*performed*" by inserting "*in the Commonwealth*";

On page 84, line 10, after "*entity*" insert "*in the Commonwealth*";

On page 84, line 15, after "." by adding the following:

"*A business entity engaged in the severance or processing of coal, including but not limited to administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter.*":

On page 84, line 22, by deleting "*act*" and insert in lieu thereof "*business*";

On page 87, line 7, after "*(d)*" by inserting:

"*For November 1, 1987 through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter,*";

On page 100, lines 20 & 22 by deleting "*board*" and inserting in lieu thereof "*administrative law judge*";

On page 100, line 23, after "*appeal*" by adding "*to the board*";

On page 101, line 19, by deleting "*To file a claim under*";

On page 101, by deleting lines 20 through 26 in their entirety;

On page 106, line 20, by deleting the new language;

On page 106, lines 20 and 21 by removing the brackets and strikethroughs;

On page 118, lines 4 and 5, by deleting:

"*provided, however, that such member shall be a resident of Kentucky*".

The Senate Amendment No. 4 to **HB 1** is as follows:

Amend printed copy of **HB 1** as follows:

On page 18, beginning on line 13 through page 19, line 24 by deleting the language in its entirety and by inserting in lieu thereof:

"*(2) On October 31, 1988, and each October 31 thereafter the funding commission shall determine the amount of premiums reported and assessments imposed in subsection 1 of this section for such past period as appropriate. If the funding commission determines that the special fund assessment rate imposed to produce seventy million dollars ($70,000,000) or the additional special fund assessment rate imposed to produce forty million dollars ($40,000,000) are likely to produce more or less than seventy million dollars ($70,000,000) or forty million dollars ($40,000,000) during the next annual period, the commission shall, based upon such determination calculate such adjustments to each rate as shall be necessary to provide seventy million dollars ($70,000,000) and forty million dollars ($40,000,000) respectively during the next annual period beginning on April 1 of each year. On or before March 1 of each year, the commission shall notify each insurance company writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the adjusted rates which shall become effective on April 1 of each year, unless modified by the general assembly.*"

Representative Rapier moved that the House concur in the Senate Amendment No. 6 to **HB 1**. Agreed.

Representative Rapier moved that the House concur in the Senate Amendment No. 9 to **HB 1**. Agreed.

Representative Rapier moved that the House concur in the Senate Amendment No. 10 to **HB 1**. Agreed.

Representative Rapier moved that the House concur in the Senate Amendment No. 11 to **HB 1**. Agreed.

Representative Rapier moved that the House concur in the Senate Amendment No. 12 to **HB 1**. Agreed.

Representative Rapier moved that the House concur in the Senate Amendment No. 13 to **HB 1**. Agreed.

Representative Rapier moved that the House refuse to concur in the Senate Amendment No. 15 to **HB 1**. Agreed.

Representative Rapier moved that the House concur in the Senate Amendment No. 16 to **HB 1**.

On the roll call the vote was yeas 43—Arnold, Blandford, Bronger, Bruce, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Deskins, Farrow, Ford, Gregory, Handy, Hourigan, Jackson, A. Jones, R. Jones, Layman, LeMaster, Little, Long, Lundergan, Lyne, Maggard, McBee, McElroy, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Riner, Robinson, Seum, B. Smith, R. Smith, Todd, Walker, Worthington. Nays 52—Ackerson, Adams, Adkins, Allen, Altman, Ark, Ballard, Barrows, Blevins, J. Brown, M. Brown, Burnette, Callahan, Casebier, Cowan, Donnermeyer, Freibert, Gedling, Gray, Guenthner, Hancock, J. Harper, K. Harper, Heleringer, Hoover, Johnson, T. Jones, Keith, Lear, Lefevers, Lile, Mack, Mason, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Overstreet, Preston, Reinhardt, Ridley, Scorsone, Siler, Strong, Stumbo, Turner, White, Will.

The motion that the House concur in the Senate Amendment No. 16 to **HB 1** was rejected.

Representative Rapier moved that the House concur in the Senate Amendment No. 20 to **HB 1**. Agreed.

Representative Rapier moved that the House concur in the Senate Amendment No. 37 to **HB 1**.

Representative Overstreet inquired if Senate Amendment No. 37 complied with Section 55 of the Constitution? The Chair ruled the amendment does comply.

Representative Deskins inquired if Senate Amendment No. 37 was germane. The Chair ruled it was germane.

On the roll call the vote was yeas 73—Ackerson, Allen, Altman, Ark, Arnold, Barrows, Blandford, Bronger, J. Brown, M. Brown, Bruce, Burnette, Callahan, Casebier, L. Clark, P. Clark, Clarke, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Lear, LeMaster, Lile, Long, Lundergan, Lyne, Mack, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noland, O'Brien, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Scorsone, Seum, B. Smith, R. Smith, Todd, Turner, Walker, Will, Worthington. Nays 22—Adams, Adkins, Ballard, Blevins, Castleman, Cline, Deskins, Keith, Layman, Lefevers, Little, Maggard, Mason, Noe, Overstreet, Preston, Ridley, Robinson, Siler, Strong, Stumbo, White.

The motion that the House concur in the Senate Amendment No. 37 to **HB 1** was adopted.

Representative Morris moved that the House refuse to concur in the Senate Amendment No. 38 to **HB 1**. Agreed.

Representative Rapier moved that the House concur in the Senate Amendment No. 24 to **HB 1**.

On the roll call the vote was yeas 51—Adkins, Allen, Altman, Ballard, Blandford, Blevins, Bronger, J. Brown, Bruce, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cowan, Crupper, Curd, Cyrus, Deskins, Ford, Gedling, J. Harper, Hourigan, Jackson, A. Jones, Layman, Lefevers, Little, Lyne, Maggard, Mason, McBee, McElroy, Morris, Noe, Noland, Overstreet, Preston, Pritchett, Rapier, Richards, P. Richardson, Ridley, Robinson, Seum, Siler, Strong, Stumbo, Todd, White, Worthington. Nays 39—Ackerson, Adams, Ark, Arnold, Barrows, Burnette, Casebier, Cline, Donnermeyer, Farrow, Freibert, Gray, Gregory, Guenthner, Hancock, Handy, K. Harper, Heleringer, Johnson, R. Jones, T. Jones, Lear, LeMaster, Lile, Long, Mack, Meyer, Moberly, Nett, O'Brien, Reinhardt, B. Richardson, Riner, Scorsone, B. Smith, R. Smith, Turner, Walker, Will.

The motion that the House concur in the Senate Amendment No. 24 to **HB 1** was adopted.

Representative Rapier moved that the House concur in the Senate Amendment No. 42 to **HB 1**. Agreed.

Representative Rapier moved that the House concur in the Senate Amendment No. 4 to **HB 1**. Agreed.

Representative Rapier moved that **HB 1**, as amended by the Senate and concurred in by the House, be passed.

Representative Bronger inquired whether a vote on the bill as amended by the Senate was in order since the House refused to concur in all the Senate Amendments.

The Chair ruled the proper procedure was being followed.

On the roll call the vote was yeas 74—Ackerson, Altman, Ark, Arnold, Ballard, Blandford, Blevins, Bronger, M. Brown, Bruce, Burch, Burnette, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Handy, J. Harper, K. Harper, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Layman, Lear, LeMaster, Lile, Long, Lundergan, Lyne, Mack, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, O'Brien, Overstreet, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Riner, Scorsone, Seum, B. Smith, R. Smith, Todd, Turner, Walker, Will, Worthington. Nays 20—Adams, Adkins, Allen, J. Brown, Clarke, Deskins, Hancock, Keith, Lefevers, Little, Maggard, Mason, Noe, Preston, Ridley, Robinson, Siler, Strong, Stumbo, White.

HB 1, as amended by the Senate, was passed and the title agreed to.

Motions, Petitions and Communications.

Representative Stumbo moved that the rules be suspended to introduce and act upon Resolutions. Agreed.

Introduction of Resolutions

HR 24, by Representative Scorsone: A RESOLUTION honoring Urika M. Berry of Fayette County.

HR 25, by Representative Scorsone: A RESOLUTION honoring the congregation of historic Pleasant Green Missionary Baptist Church.

HR 26, by Representative Kerr: A RESOLUTION in memory of Ann M. Fox.

HR 27, by Representative Meyer: A RESOLUTION honoring Thomas Geimeier and Medrith Jo Hager of Ludlow, Kentucky for their heroism.

HR 28, by Representative Hancock: A RESOLUTION honoring Rosemary Weddington, 1986 National Spanish Teacher of the Year and 1986 Kentucky Teacher of the Year.

HR 29, by Representative Reinhardt: A RESOLUTION adjourning the House of Representatives in memory and honor of Dr. A. E. Howe of Alexandria, Kentucky.

HR 30, by Representative Reinhardt: A RESOLUTION adjourning the House of Representatives in memory and honor of Roy Gray of Butler, Kentucky.

HR 31, by Representative Hancock: A RESOLUTION honoring Kentucky's veterans and commending the restoration of the Kentucky Veterans' Military Monument.

HR 32, by Representative Nett: A RESOLUTION to conduct a study of a statewide bottle recycling plan.

HR 33, by Representative Nett: A RESOLUTION directing a study of traffic routing on Kentucky highways.

HR 34, by Representative Nett: A RESOLUTION requesting the Natural Resources and Environmental Protection Cabinet to enter into negotiations with the Environmental Protection Agency and the State of Indiana for the clean-up of the fossil beds area of the Falls of the Ohio, across from the City of Louisville, Kentucky.

Representative Richards moved the adoption of the following **HR 21**:

HR 21, A RESOLUTION honoring Kentucky "Teacher of the Year," Brenda Hare McGown.

WHEREAS, Mrs. McGown has for more than sixteen years demonstrated an unwavering dedication to the educational development of the students at Warren East High School; and

WHEREAS, Mrs. McGown is an ideal teacher who has spurred the interest of her students in mathematics as a discipline and in its practical application as exemplified by her instrumental role in developing a computer lab and computer programming courses at Warren East High School; and

WHEREAS, Mrs. McGown values the self-worth of her students and so gears her teaching methods to accommodate the individual differences and varying degrees of motivation, skills, and ability of her students; and

WHEREAS, Mrs. McGown has been selected 1987 Kentucky Teacher of the Year by the Department of Education; and

WHEREAS, Mrs. McGown will ably represent the Commonwealth in the National Teacher of the Year competition;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Mrs. Brenda Hare McGown be commended and recognized as Kentucky Teacher of the Year.

Section 2. That a copy of this resolution be sent to Mrs. McGown, Governor Martha Layne Collins, Superintendent of Public Instruction, Alice McDonald, and Robert Gover, Superintendent of Warren County Schools.

HR 21 was adopted by voice vote.

Representative Turner moved the adoption of the following HR 22:

HR 22, A RESOLUTION adjourning the House of Representatives in memory and honor of United States Congressman Tim Lee Carter.

With reverence we pay homage and tribute to the memory of our departed mentor, friend and brother, Tim Lee Carter;

WHEREAS, the honorable Tim Lee Carter of Tompkinsville has crossed that final bourne from which no traveler returns; and

WHEREAS, Tim Lee Carter was the much admired and beloved United States Congressman from the 5th District, from the 89th through the 96th Congress, serving on many powerful and important committees including Interstate and Foreign Commerce and Small Business; and

WHEREAS, a dominant influence in Washington, Tim Lee Carter was a bulwark upon which his fellow Kentuckians could depend, a public servant who worked tirelessly for the citizens of the 5th Congressional District; and

WHEREAS, Tim Lee Carter was known for his compassion and selfless efforts to improve the quality of life, not only for his constituents in his home county of Monroe, but for every individual in the counties of Adair, Bell, Casey, Clay, Clinton, Cumberland, Estill, Garrard, Green, Harlan, Jackson, Jessamine, Knox, Laurel, Lee, Leslie, Lincoln, McCreary, Metcalfe, Owsley, Pulaski, Rockcastle, Russell, Taylor, Wayne, Whitley, and a portion of Letcher comprising the 5th District; and

WHEREAS, Tim Lee Carter began his distinguished public career as a school teacher in 1927; and

WHEREAS, Tim Lee Carter received his medical degree in 1937 and worked as an intern at the United States Marine Hospital Maternity Center in Chicago before returning to Kentucky to open his practice in Tompkinsville in 1939; and

WHEREAS, Tim Lee Carter was a decorated officer in the United States Marine Corps during World War II, serving as a Captain and receiving the Bronze Star; and

WHEREAS, Tim Lee Carter was the devoted and loving husband of Kathleen, his beautiful wife of forty-five years; and

WHEREAS, Tim Lee Carter was the recipient of the prestigious Benjamin Rush award for citizenship and community service, as well as the Tom Wallace award for conservation; and

WHEREAS, Tim Lee Carter was an active participant of his community who was a member of the American Medical Association, the Kentucky Medical Association, the American and Kentucky Academies of general practice, Alpha Omega Alpha, the Shriners and a 33rd degree Mason; and

WHEREAS, Tim Lee Carter was a humble man who preferred to be known as "just a country doctor" who always held the needs and interests of his constituents close to his heart; and

WHEREAS, Tim Lee Carter leaves a legacy of compassion and integrity to those Americans who carry on his struggle against poverty, ignorance and illness; and

WHEREAS, the death of Tim Lee Carter has left a void that will be difficult to fill and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do express their deep sense of bereavement and loss upon the passing of Tim Lee Carter and commend his loved ones to the solace of the Almighty during these dark and painful days.

Section 2. That the House posthumously proclaims its native son, Tim Lee Carter of Tompkinsville, to have been an outstanding citizen, exemplary representative of the Commonwealth, and humanitarian ambassador for all Americans.

Section 3. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Wednesday, October 21, 1987, it does so in memory and honor of United States Congressman Tim Lee Carter.

Section 4. That the Clerk of the House is hereby directed to transmit a copy of this resolution to Mrs. Carter, 701 N. Main Street, Tompkinsville, Kentucky 42167.

HR 22 was adopted by voice vote.

Representative Meyer moved the adoption of the following **HR 27**:

HR 27, A RESOLUTION honoring Thomas Geimeier and Medrith Jo Hager of Ludlow, Kentucky for their heroism.

WHEREAS, in November of 1986 Benjamin Overbay, five years old, was tragically struck by an automobile which came to rest upon this small child; and

WHEREAS, Benjamin Overbay was heroically rescued from imminent death by the swift and selfless actions of Thomas Geimeier and Medrith Jo Hager; and

WHEREAS, Thomas Geimeier, a teacher at Ludlow High School, single-handedly lifted the automobile off of Benjamin while Medrith Jo Hager, a secretary at Ludlow Elementary School, pulled Benjamin free of the incredible mass of steel, rubber, and glass which rested upon him; and

WHEREAS, Benjamin Overbay is alive today due to the quick response and gentle care administered by Thomas Geimeier and Medrith Jo Hager;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do hereby honor and praise the heroism and heroic behavior of Thomas Geimeier and Medrith Jo Hager in their rescue of Benjamin Overbay.

Section 2. That the House of the General Assembly of the Commonwealth of Kentucky does hereby proclaim Thomas Geimeier and Medrith Jo Hager of Ludlow to be outstanding citizens and exemplary representatives of the Commonwealth.

Section 3. That the Clerk of the House is hereby directed to transmit a copy of this resolution to Thomas Geimeier, 5936 Vice Lane, Burlington, Kentucky 41005, and to Medrith Jo Hager, 1605 Park Road, Ft. Wright, Kentucky 41011.

HR 27 was adopted by voice vote.

Representative Scorsone moved the adoption of the following **HR 24**:

HR 24, A RESOLUTION honoring Urika M. Berry of Fayette County.

WHEREAS, Urika Berry, the daughter of Ulysses and Marion Berry, is currently a senior at Bryan Station High School; and

WHEREAS, Urika Berry consistently achieves academic excellence; and

WHEREAS, Urika Berry was one of two Kentucky high school students selected to attend the 1987 session of Girls Nation and has brought further honor to the Commonwealth by her election as vice president of that body; and

WHEREAS, Urika Berry was a participant in the International Studies Magnet Program and the Model United Nations; and

WHEREAS, Urika Berry is an active member of the Bryan Station High School French Club; and

WHEREAS, Urika Berry has been named a semifinalist in the 1988 National Achievement Scholarship Program for Outstanding Negro Students;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House praises Miss Urika Berry for her scholastic achievements.

Section 2. That the House commends Urika upon being named a semifinalist in the 1988 National Achievement Scholarship Program for Outstanding Negro students.

Section 3. That this honorable body hails Urika Berry as an outstanding citizen, superlative student, and exemplary representative of the Commonwealth.

Section 4. That the Clerk of the House is directed to transmit a copy of this resolution to Urika M. Berry and her principal, Jon R. Akers, in care of Bryan Station High School in Fayette County.

HR 24 was adopted by voice vote.

Representative Callahan moved the adoption of the following **HR 26**:

HR 26, A RESOLUTION in memory of Ann M. Fox.

WHEREAS, Ann M. Fox, of Kenton County, departed this earth on October 19, 1987; and

WHEREAS, Ann M. Fox took an active role in her community and in Kentucky politics as well; and

WHEREAS, Ann Fox was a successful businesswoman, who had established her own real estate company; and

WHEREAS, she set a fine example for the youth of her community; and

WHEREAS, Ann Fox was a committed Christian, an outstanding Kentuckian, and a devoted mother, grandmother and great-grandmother;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House expresses its sorrow upon hearing of the loss of Ann Fox and extends its sympathy to her family.

Section 2. That when the House adjourns this day, Thursday, October 22, 1987, it does so in honor and memory of Ann Fox.

Section 3. That a copy of this resolution be sent to her daughter, Jo Ann Kerr.

HR 26 was adopted by voice vote.

Representative Hancock moved the adoption of the following **HR 20**:

HR 20, A RESOLUTION urging and praying for the speedy recovery of Garland "Bugs" Wilson, Jr. and urging his swift return to the Capitol.

WHEREAS, Garland Wilson, Jr., affectionately known as "Bugs," has faithfully served all comers at the canteen in the basement of the Capitol for many years; and

WHEREAS, Bugs' faithful service and cheerful disposition have become a part of the lore of the Capitol; and

WHEREAS, on October 19, 1987, while at his post in the Capitol canteen, Bugs was stricken with chest pains and as a result thereof is currently in the Intensive Care Unit at King's Daughters Memorial Hospital in Frankfort; and

WHEREAS, the members of the General Assembly, the staff of the Legislative Research Commission, and others in the Capitol miss Bugs and are worried about his condition; and

WHEREAS, we all pray for Bugs' speedy and complete recovery; and

WHEREAS, Bugs is needed back at the Capitol building;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky expresses its concern over Bugs' medical condition.

Section 2. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky prays for Bugs Wilson's full and speedy recovery.

Section 3. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky urges Bugs to return to his post as soon as he is physically able.

Section 4. That the Clerk of the House cause a copy of this resolution to be delivered to Garland "Bugs" Wilson, Jr. at King's Daughters Memorial Hospital in Frankfort.

HR 20 was adopted by voice vote.

Representative Hancock moved the adoption of the following **HR 28**:

HR 28, A RESOLUTION honoring Rosemary Weddington, 1986 National Spanish Teacher of the Year and 1986 Kentucky Teacher of the Year.

WHEREAS, Rosemary Weddington has devoted thirty-four years of her life to teaching the children of the Commonwealth; and

WHEREAS, Rosemary Weddington has been an exemplary teacher of Spanish in the Franklin County School District since 1956; and

WHEREAS, Rosemary Weddington has been an active member in several professional organizations; and

WHEREAS, Rosemary Weddington has held several offices in these organizations and has served as president of the Franklin County Education Association, the Kentucky Education Association, the Central Kentucky Foreign Language Association, and the Kentucky Association of Teachers of Spanish and Portuguese; and

WHEREAS, Rosemary Weddington has been the sponsor of several groups of award-winning cheerleaders at Franklin County High School; and

WHEREAS, Rosemary Weddington was honored as the 1986 Kentucky Teacher of the Year; and

WHEREAS, Rosemary Weddington was honored as the 1986 National Spanish Teacher of the Year; and

WHEREAS, the Commonwealth of Kentucky is proud of the accomplishments of this outstanding teacher and is deeply indebted for the great service she has rendered;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Rosemary Weddington be commended and honored for her accomplishments and service to the Commonwealth.

Section 2. That a copy of this resolution be sent to Rosemary Weddington, Governor Martha Layne Collins, Superintendent of Public Instruction Alice McDonald, and Dr. Faurest Coogle, Superintendent of Franklin County Schools.

HR 28 was adopted by voice vote.

Representative Hancock moved the adoption of the following **HR 31**:

HR 31, A RESOLUTION honoring Kentucky's veterans and commending the restoration of the Kentucky Veterans' Military Monument.

WHEREAS, throughout the history of the Commonwealth, Kentucky's military veterans have nobly and proudly served their nation, and many thousands of them have given their lives in the defense of our liberty; and

WHEREAS, the Kentucky Veterans' Military Monument was built in the Frankfort Cemetery to honor these veterans, but was allowed to fall into disrepair; and

WHEREAS, through the efforts of the Kentucky General Assembly and others, the Kentucky Veterans' Military Monument has undergone extensive restoration; and

WHEREAS, on November 11, 1987, a ceremony will be held to re-dedicate this monument;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That when the House of Representatives adjourns this day, October 22, 1987, it does so in honor of Kentucky's military veterans.

Section 2. That the House of Representatives commends the restoration of the Kentucky Veterans' Military Monument in the Frankfort Cemetery.

Section 3. That the House of Representatives hereby expresses its appreciation for the invitation extended to all members of the General Assembly to attend the re-dedication of that monument in Frankfort on Veterans' Day, November 11, 1987.

HR 31 was adopted by voice vote.

Representative Reinhardt moved the adoption of the following **HR 29**:

HR 29, A RESOLUTION adjourning the House of Representatives in memory and honor of Dr. A. E. Howe of Alexandria, Kentucky.

With reverence we pay homage and tribute to the memory of Dr. A. E. Howe:

WHEREAS, on October 5, 1987, Dr. A. E. Howe of Alexandria, Kentucky crossed that final bourne from which no traveler returns only two days shy of his 91st birthday; and

WHEREAS, it is only fitting that Dr. A. E. Howe's epithet read that he was just "an all around, good 'ol country doctor" since as a general practitioner Dr. Howe treated all types of illnesses as he traversed the Northern Kentucky countryside; and

WHEREAS, during his many years of medical service Dr. A. E. Howe delivered over 5,000 infants; and

WHEREAS, Dr. A. E. Howe was a compassionate man who never forgot that each of his many patients was an individual who had particular needs; and

WHEREAS, Dr. A. E. Howe was an active participant in the religious community as a member of the Alexandria Methodist Church; and

WHEREAS, Dr. A. E. Howe was a loving husband and devoted father of two sons; and

WHEREAS, the death of Dr. A. E. Howe has left a void in the Alexandria community that will be difficult to fill as he is mourned throughout Northern Kentucky by his many friends and loved ones;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do express their deep sense of bereavement and loss upon the passing of Dr. A. E. Howe and commend his loved ones to the solace of the Almighty during these dark and painful days.

Section 2. That the House posthumously proclaims its native son, Dr. A. E. Howe, to have been an outstanding citizen and exemplary representative of the Commonwealth.

Section 3. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Thursday, October 22, 1987, it does so in memory and honor of Dr. A. E. Howe.

Section 4. That the Clerk of the House is hereby directed to transmit a copy of this resolution to Mrs. Ortha Howe, Three East Main, Alexandria, Kentucky 41001.

HR 29 was adopted by voice vote.

Representative Reinhardt moved the adoption of the following **HR 30**:

HR 30, A RESOLUTION adjourning the House of Representatives in memory and honor of Roy Gray of Butler, Kentucky.

With reverence we pay homage and tribute to the memory of Roy Gray:

WHEREAS, Roy Gray of Butler, Kentucky recently crossed that final bourne from which no traveler returns at the age of 79; and

WHEREAS, Roy Gray, a farmer by profession, was instrumental in expanding water and electric service throughout Northern Kentucky, diligently serving as a board member of the Owen County RECC, as well as the board of East Kentucky Power in Winchester, Kentucky; and

WHEREAS, Roy Gray and his lovely wife had been married for 56 years; and

WHEREAS, Roy Gray was a devoted husband and loving father of two daughters, and a loving grandfather of four; and

WHEREAS, Roy Gray was an active participant in the religious and civic communities as a member of the Plum Creek Christian Church; and

WHEREAS, Roy Gray was a member of the Campbell County Southern States; and

WHEREAS, the death of Roy Gray has left a void in the Butler community that will be difficult to fill as he is mourned throughout Northern Kentucky by his many friends and loved ones;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do express their deep sense of bereavement and loss upon the passing of Roy Gray and commend his loved ones to the solace of the Almighty during these dark and painful days.

Section 2. That the House posthumously proclaims its native son, Roy Gray, to have been an outstanding citizen and exemplary representative of the Commonwealth.

Section 3. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Thursday, October 22, 1987, it does so in memory and honor of Roy Gray.

Section 4. That the Clerk of the House is hereby directed to transmit a copy of this resolution to Mrs. Gray, Route 2, Butler, Kentucky 41006.

HR 30 was adopted by voice vote.

Representative Scorsone moved the adoption of the following **HR 25**:

HR 25, A RESOLUTION honoring the congregation of historic Pleasant Green Missionary Baptist Church.

WHEREAS, the Pleasant Green Missionary Baptist Church was founded in 1790; and

WHEREAS, congregations have worshipped at the same location since 1822; and

WHEREAS, the Pleasant Green Missionary Baptist Church has had a tradition of charity, vitality and service to the community; and

WHEREAS, this congregation has been blessed with the ministry of Reverend T. H. Peoples, Jr.; and

WHEREAS, Pleasant Green Missionary Baptist Church will celebrate its 197th anniversary on Sunday, October 25, 1987; and

WHEREAS, this anniversary is a joyous occasion;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors and congratulates the congregation of the Pleasant Green Missionary Baptist Church and its pastor, Reverend T. H. Peoples, Jr., upon the occasion of the congregation's 197th anniversary.

Section 2. That when the House adjourns this day, Thursday, October 22, 1987, it does so in honor of the Pleasant Green Missionary Baptist Church.

Section 3. That the clerk of the House is directed to transmit a copy of this resolution to the Pleasant Green Missionary Baptist Church, 540 West Maxwell Street, Lexington, Kentucky, 40508.

HR 25 was adopted by voice vote.

Representative Riner moved the adoption of the following **HR 34**:

HR 34, A RESOLUTION requesting the Natural Resources and Environmental Protection Cabinet to enter into negotiations with the Environmental Protection Agency and the State of Indiana for the clean-up of the fossil beds area of the Falls of the Ohio, across from the City of Louisville, Kentucky.

WHEREAS, the fossil beds area of the Falls of the Ohio has become cluttered with unsightly debris deposited by the periodic overflow of the Ohio River; and

WHEREAS, the City of Louisville and the Indiana tri-city area adjoining the Falls of the Ohio would benefit from increased tourism to the area as a result of such clean-up; and

WHEREAS, the quality of life of the residents of this area would be enhanced as a result of such clean-up;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Natural Resources and Environmental Protection Cabinet is requested to contact the Environmental Protection Agency and the appropriate department or agency of the State of Indiana to enter into negotiations to develop a plan for the clean-up of the fossil beds area of the Falls of the Ohio River.

HR 34 was adopted by voice vote.

Representative Riner moved the adoption of the following **HR 33**:

HR 33, A RESOLUTION directing a study of traffic routing on Kentucky highways.

WHEREAS, traffic congestion is becoming a serious problem in major cities throughout the United States; and

WHEREAS, tractor-trailer and Class 8 truck traffic grows as a city expands its economic base; and

WHEREAS, Louisville is the Commonwealth's largest city and is presently engaged in a program of economic expansion; and

WHEREAS, traffic on I-264, known as the Watterson Expressway is slow and hazardous under routine conditions when no special problems exist; and

WHEREAS, present construction on I-264 is further complicating the flow of traffic; and

WHEREAS, construction has been completed on an alternative route known as the Gene Snyder Freeway;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky Transportation Cabinet is directed to conduct a study of the feasibility of routing all interstate truck traffic to the Gene Snyder Freeway.

Section 2. That by truck traffic is meant tractor-trailer combinations and trucks in Class 8 by Internal Revenue Service standards of thirty-three thousand (33,000) pound gross vehicle weight that are not based in Kentucky or transporting Kentucky products.

Section 3. That although this study is being conducted in Louisville, it is to be conducted in such a manner that its findings may be used as a basis of information for other cities in the Commonwealth which may be experiencing similar problems now or in the future.

Section 4. That the Secretary of the Kentucky Transportation Cabinet is directed to report the findings of this study to the 1989 Organizational Session of the Kentucky General Assembly.

HR 33 was adopted by voice vote.

Representative Riner moved the adoption of the following **HR 32**:

HR 32, A RESOLUTION to conduct a study of a statewide bottle recycling plan.

WHEREAS, the problem of waste disposal has reached a crisis stage throughout the United States; and

WHEREAS, landfills used for disposal of waste are quickly filling up; and

WHEREAS, the waste disposal method of incineration poses serious health and environmental problems; and

WHEREAS, the public must become aware and involved in solving this crisis situation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Natural Resources and Environmental Protection Cabinet is directed to conduct a study of a statewide bottle recycling plan. The Cabinet shall consider the recycling plan which has been adopted by the State of California as a model. In addition, the study shall consider implementation of any plan by the fall of 1990 and that any plan shall have as a goal recycling of ninety-five (95) percent of the waste presently disposed of by burning or burial.

Section 2. That the Cabinet shall present the study to the Legislative Research Commission by January of 1990.

HR 32 was adopted by voice vote.

Representative Gray moved that the rules be suspended to act upon Legislative Citations. Agreed.

Representative Gray moved the adoption of the following Legislative Citation No. 4.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates Mrs. Wood Ferguson, of Eddyville, upon the happy occasion of her ninetieth birthday, wishing her many happy returns, and congratulating her as an outstanding and dedicated Kentuckian, whose life as educator, Sunday School teacher, and involved citizen has been and continues to be an inspiration to all who know her. (Sponsored by Representative Gray)

Agreed.

Representative Riner moved that the rules by suspended to act upon a Resolution. Agreed.

Representative Riner moved the adoption of the following **HR 23**:

HR 23, A RESOLUTION urging humanitarian assistance for victims of the war in Afghanistan.

WHEREAS, in 1979 the Soviet Union invaded Afghanistan and has murdered over 1,000,000 Afghan men, women and children in a genocidal war which compares in brutality and in scope to the Nazi Germany Holocaust; and

WHEREAS, Soviet soldiers are scattering bombs disguised as toys, in order to maim children and place a greater burden on the Afghan resistance in transporting children to medical facilities in neighboring Pakistan; and

WHEREAS, the Soviets' war against children and the civilian population of Afghanistan has resulted in the execution of eighty percent of Afghanistan's doctors, the destruction of all hospitals, the poisoning of water and food supplies, and the destruction of valuable farmland and livestock; and

WHEREAS, The Committee for a Free Afghanistan's "Project Wounded" was started in 1984 to provide free medical care for the Afghans whose injuries are too severe to be treated in Pakistan; and

WHEREAS, over 175 Afghan patients have been transported by the United States government to be treated in participating hospitals throughout the United States; and

WHEREAS, nearly 100 Afghan patients have been hospitalized for over a year waiting to come to the United States;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives commends Project Wounded for its outstanding efforts to secure medical treatment for the men, women and children victimized by Soviet aggression in Afghanistan.

Section 2. That the Kentucky House of Representatives urges Kentucky's university-affiliated teaching hospitals, as well as private hospitals, nursing homes and physicians, to extend Kentucky's good will to the people of Afghanistan by reviewing the medical records of those waiting to receive treatment in the United States and volunteering to accept those patients whose injuries they feel most comfortable treating.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to the Kentucky Medical Association, the Kentucky Hospital Association, the Kentucky Association for Health Care Facilities and to the Committee for a Free Afghanistan.

HR 23 was adopted by voice vote.

Recess

Representative Stumbo moved that the House recess for ten minutes. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended to reconsider the vote on **HB 1**, as amended by the Senate. Agreed.

Representative Rapier moved that **HB 1** as amended by the Senate, be reconsidered. Agreed.

Representative Rapier moved that the vote by which the House refused to concur in the Senate Amendment No. 16 to **HB 1** be reconsidered.

On the roll call the vote was yeas 65—Adkins, Allen, Altman, Arnold, Ballard, Blandford, Blevins, Bronger, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Deskins, Farrow, Ford, Freibert, Gedling, Gray, Gregory, J. Harper, Hoover, Hourigan, Jackson, A. Jones, R. Jones, Layman, Lile, Little, Long, Lyne, Maggard, McBee, McElroy, Meyer, Morris, Napier, Nett, Noland, O'Brien, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Ridley, Riner, Seum, B. Smith, R. Smith, Stumbo, Todd, Turner, Walker, White, Will. Nays 25—Ackerson, Adams, Ark, Barrows, Guenthner, Hancock, Handy, Heleringer, Johnson, T. Jones, Keith, Lear, Lefevers, Lundergan, Mack, Mason, Moberly, Noe, Overstreet, Preston, Reinhardt, Robinson, Scorsone, Siler, Strong.

The motion that the vote by which the House refused to concur in the Senate Amendment No. 16 to **HB 1** be reconsidered was adopted.

Representative Rapier moved that the House concur in the Senate Amendment No. 16 to **HB 1**. Agreed.

Representative Rapier moved that **HB 1**, as amended by the Senate and concurred in by the House, be passed.

Representative Seum moved that the vote by which the House concurred in the Senate Amendment No. 24 to **HB 1** be reconsidered.

On the roll call the vote was yeas 47—Ackerson, Altman, Ark, Arnold, Barrows, M. Brown, Burch, Callahan, Casebier, Cyrus, Donnermeyer, Farrow, Ford, Gedling, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Heleringer, Hoover, Johnson, A. Jones, R. Jones, T. Jones, Lear, LeMaster, Long, Lundergan, Mack, Mason, Meyer, Moberly, Morris, Napier, Nett, Noland, O'Brien, Reinhardt, B. Richardson, Riner, Scorsone, Seum, B. Smith, Will. Nays 45—Adams, Adkins, Allen, Ballard, Blandford, Blevins, Bronger, J. Brown, Bruce, Castleman, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Deskins, Hourigan, Jackson, Keith, Layman, Lefevers, Little, Lyne, Maggard, McBee, McElroy, Noe, Overstreet, Preston, Pritchett, Rapier, Richards, P. Richardson, Ridley, Robinson, Siler, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White.

The motion that the vote by which the House concurred in the Senate Amendment No. 24 to HB 1 be reconsidered was adopted.

Representative Meyer moved that the House refuse to concur in the Senate Amendment No. 24 to HB 1.

On the roll call the vote was yeas 43—Ackerson, Altman, Ark, Arnold, Barrows, Burch, Callahan, Casebier, Cyrus, Donnermeyer, Farrow, Ford, Gedling, Gray, Guenthner, Hancock, Handy, J. Harper, K. Harper, Heleringer, Johnson, A. Jones, R. Jones, T. Jones, Lear, LeMaster, Lile, Long, Lundergan, Mack, Mason, Meyer, Nett, O'Brien, Reinhardt, B. Richardson, Riner, Robinson, Scorsone, Seum, B. Smith, Todd, Walker. Nays 45—Adams, Adkins, Allen, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Castleman, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Deskins, Freibert, Gregory, Hourigan, Jackson, Keith, Layman, Lefevers, Little, Lyne, Maggard, McBee, McElroy, Morris, Noe, Preston, Pritchett, Rapier, Richards, P. Richardson, Ridley, Siler, R. Smith, Strong, Stumbo, Turner, White, Will.

The motion that the House refuse to concur in the Senate Amendment No. 24 to HB 1 was rejected.

Representative Rapier moved that the House concur in the Senate Amendment No. 24 to HB 1. Rejected.

Representative Rapier moved that HB 1, as amended by the Senate, be passed.

On the roll call the vote was yeas 73—Ackerson, Altman, Ark, Arnold, Ballard, Barrows, Blevins, Bronger, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Cowan, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Guenthner, Handy, J. Harper, K. Harper, Heleringer, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Layman, Lear, LeMaster, Lile, Long, Lundergan, Lyne, Mack, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, O'Brien, Overstreet, Pritchett, Rapier, Reinhardt, Richards. B. Richardson, P. Richardson, Riner, Scorsone, Seum, B. Smith, R. Smith, Todd, Turner, Walker, Will, Worthington. Nays 18—Adams, Adkins, Allen, Deskins, Hancock, Keith, Lefevers, Little, Maggard, Mason, Noe, Preston, Ridley, Robinson, Siler, Strong, Stumbo, White.

HB 1, as amended by the Senate, was passed and the title agreed to.

Recess

Representative Stumbo moved that the House recess until 10:00 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

HB 1 returned with the following message: The Senate has receded from its Amendment Nos. 15, 24, and 38 and is respectfully returning same to this Honorable Body for enrollment.

Announcements

Representative Stumbo moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Stumbo moved the adoption of the following SCR 15:

SCR 15, A CONCURRENT RESOLUTION relating to adjournment of the 1987 Extraordinary Session of the General Assembly.

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That when the Senate and the House of Representatives adjourn on October 22, 1987, they do so to convene again in regular session on Tuesday, January 5, 1988.

SCR 15 was adopted by voice vote.

Representative Stumbo moved that all properly filed co-sponsor requests be approved. Agreed.

Representative B. Smith filed a request to have his name added as a co-sponsor of **HR 21**.

Representative Stumbo moved that the rules be suspended for announcements of votes to be recorded. Agreed.

Representative Noland requested that he be recorded as voting "yea" on **HB 1**.

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Representative Stumbo moved that no further business be conducted except enrollment of bills, accepting messages, entertaining motions concerning approval of the Journal, recess and adjournment. Agreed.

Recess

Representative Stumbo moved that the House recess until 11:55 p.m. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 1** and **HB 2** had been examined and found correctly enrolled. **HB 1** and **HB 2** read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time—11:55 p.m.)

HB 1 and **HB 2** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Representative Stumbo moved that the reading of the Journal of this day, October 22, 1987, be dispensed with and the same approved. Agreed.

Representative Stumbo moved that the Journal of the House of Representatives for the Extraordinary Session of 1987 be approved. Agreed.

Adjournment

Representative Stumbo moved that House adjourn until 12:00 noon, Tuesday, January 5, 1988.

The motion that the House adjourn was adopted by voice vote.

The Journal of the House of Representatives was read, compared and approved.

The House adjourned until 12:00 noon, Tuesday, January 5, 1988.

APPROVED: Donald J. Blandford, Speaker
House of Representatives

ATTEST: Evelyn Marston, Chief Clerk
House of Representatives

HISTORY OF HOUSE BILLS

(Numbers refer to page of House Journal. The text of a bill is given on first reading. Sponsors are indicated on the page of introduction.)
*Voting modifications appear at the member's name in the subject index.

Bill No.	Intro-duced	Re-ferred	Re-ported	Readings 1st	Readings 2nd	Readings 3rd	Sub. or Amend	Voting*	Senate Message	Concur Activities	En-rolled	Other Action
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HB 2	9	9	47	47	54	92		92	108		127	10 55
HB 3	48	51										

HISTORY OF HOUSE RESOLUTIONS

(Numbers refer to page of House Journal. The text of a resolution is given on first reading or adoption. Joint resolutions are designated HJR; concurrent resolutions are designated HCR.)
*Voting modifications appear at the member's name in the subject index.

Bill No.	Introduced	Referred	Reported	Readings 1st	Readings 2nd	Readings 3rd	Sub. or Amend	Voting*	Senate Message	Concur Activities	Enrolled	Other Action
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HR 2	1							2				
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HR 7	55							56				
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HISTORY OF SENATE RESOLUTIONS

(Numbers refer to page of House Journal. The text of a resolution is given on first reading or adoption. Joint resolutions are designated SJR; concurrent resolutions are designated SCR.)
*Voting modifications appear at the member's name in the subject index.

Bill No.	Senate Message	Referred	Reported	Readings 1st	Readings 2nd	Readings 3rd	Enrolled	Sub or Amend	Voting*	Other Action
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